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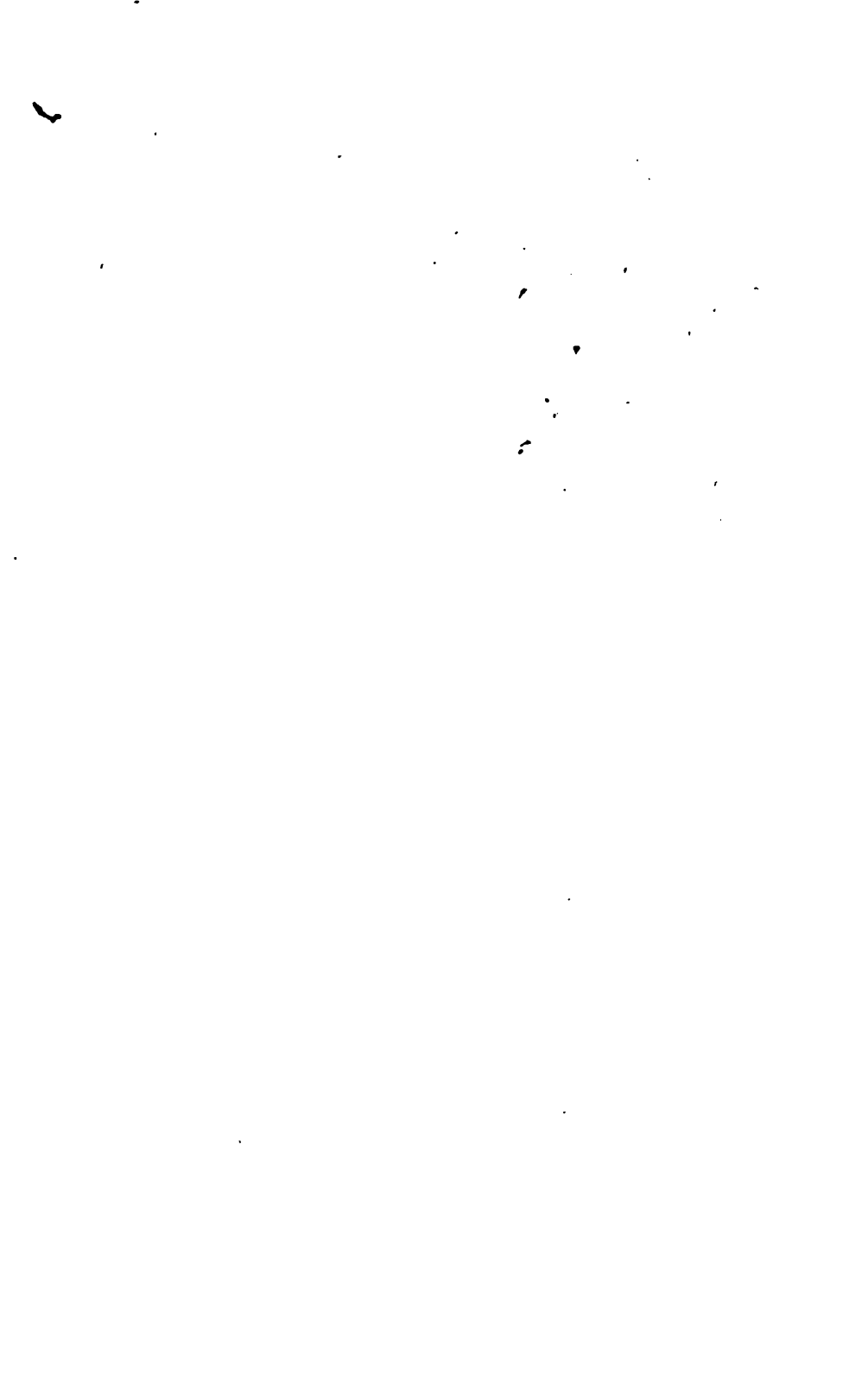
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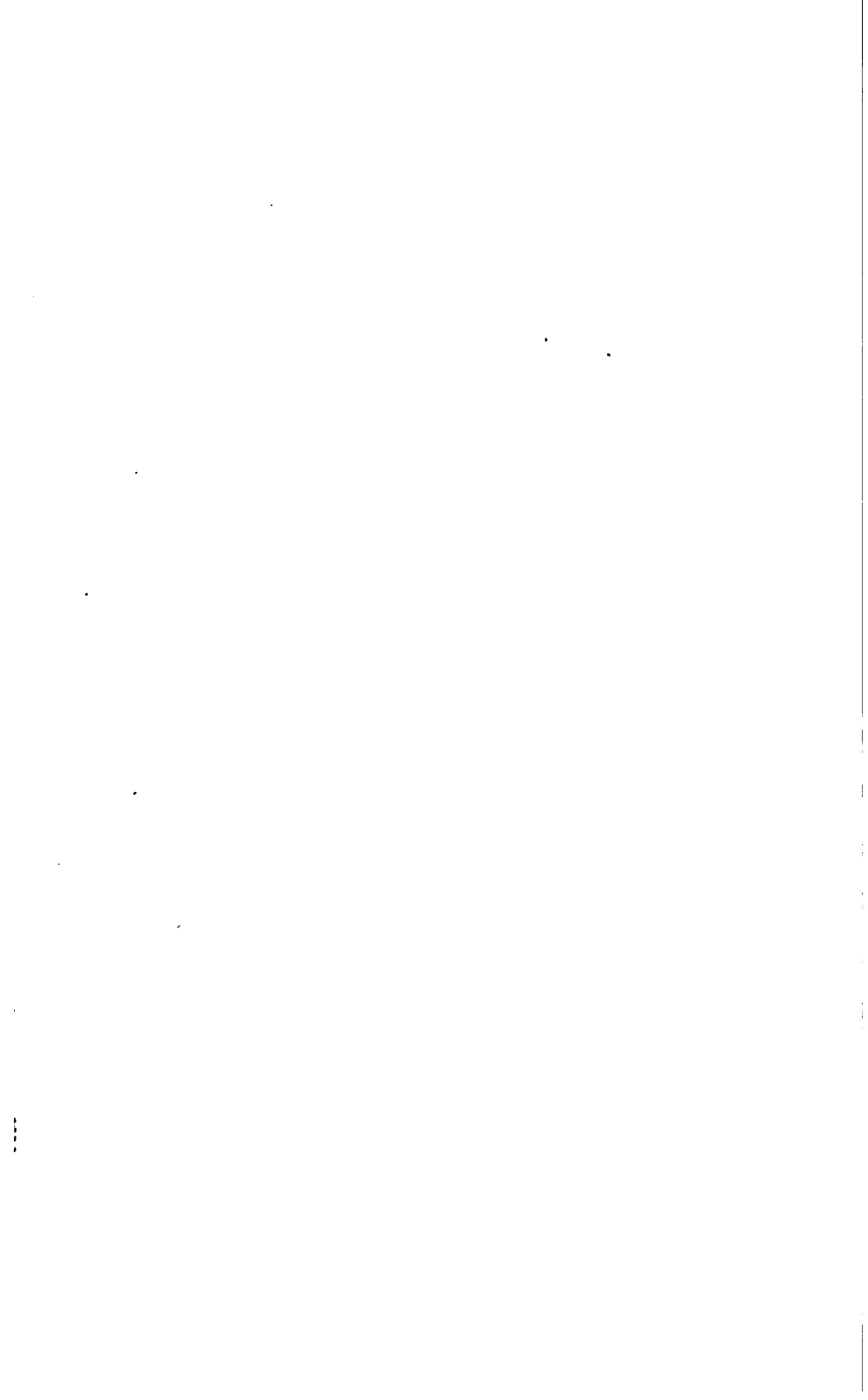
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IN ENGLAND AND WALES



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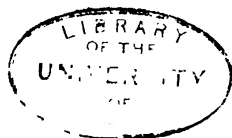
BY

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34 KING STREET, COVENT GARDEN
LONDON

1903

LB2580

J6

GENERAL

P R E F A C E.

THIS volume is designed for the use of persons concerned in the administration of the law of public education, elementary, technical and secondary. The first essential in this administration will now be a comprehension of the Education Act, 1902. Even in matters which are not directly affected by the provisions of this Act, the indirect influence of the Act will soon be widely felt. Hitherto it has been possible for a large proportion of educational administrators, and even for public educational authorities, to administer one branch of education with a fair amount of efficiency, but without much interest in, or knowledge of, the law relating to other branches. Henceforward this will not be possible, and it will be necessary for any persons or bodies wishing to deal with any branch of the subject both to acquaint themselves fully with the main principles of the Education Act, 1902, and to know or to have the means of knowing the provisions of the Acts dealing with branches of the subject other than that with which they are already familiar.

With the object of meeting these requirements, this book contains:—

In Division I.: the Education Act, 1902, fully annotated.

In Division II.: the series of Acts relating to Elementary Education and Technical Instruction.

In Division III.: the Board of Education Act, 1899, and the Orders in Council made thereunder, with the Endowed Schools, Charitable Trusts, and Mortmain and School Sites Acts.

In Division IV.: Orders in Council and statutory and other regulations as to Public Elementary Schools (the Code for 1903), Secondary Day Schools, Evening Schools and Teachers' Registration, together with Acts of minor importance, relating

to Elementary Education, including the Voluntary Schools Act, 1897, the Blind and Deaf Children Act, 1893, the Defective and Epileptic Children Act, 1899, and the Elementary School Teachers (Superannuation) Act, 1898.

In order to facilitate the consideration of the Act as a whole, the Education Act, 1902, is first printed in full without notes, and is then printed in sections with notes. Other Acts are printed in full. The repeals effected by the Education Act, 1902, and by Acts previous thereto, are distinguished from each other, and notes and cross-references are given, with the view of showing the present state of the law, and, more especially, the changes effected by the Education Act, 1902, and by the recent transfer of powers to the Board of Education made in pursuance of the Board of Education Act, 1899.

With the view of making the consequent arrangements clear, a Key to the use of the book is inserted on the following page.

The editors acknowledge with thanks the help they have received in the preparation of the volume, but they wish it to be understood that for the opinions expressed, whether legal or educational, they are solely responsible.

April 1903.

KEY.

TO THE USE OF THIS BOOK.

A summary Table of Contents is given on p. viii.

The book, exclusive of the introductory matter (pp. v to xx) and the Index, pp. 757-788, is arranged in Four Divisions, as follows:—

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November, 1903.

to London.

The text of the Education (London) Bill, introduced into the House of Commons on the 7th April 1903, will be found on p. 753.

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 ELEMENTARY EDUCATION ACTS.
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 CHARITABLE TRUSTS „
 SCHOOL SITES „

are too numerous to be usefully included in the foregoing table. Such references are therefore confined to indicating either the page at which the text will be found, or the pages in Division I. of the book (Education Act, 1902) on which the Act referred to is mentioned.

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ABBREVIATIONS OF TITLES OF REPORTS.

A. and E.,	Adolphus and Ellis.
App. C.,	Law Reports Appeal Cases.
B. and Ald.,	Barnewall and Alderson.
B. and C.,	Barnewall and Cresswell.
J. P.,	Justice of the Peace.
L. J. Ch.,	Law Journal Chancery.
" M. C.,	" Magistrates' Cases.
" Q. B.,	" Queen's Bench.
L. T.,	Law Times.
L. R., Q. B.,	Law Reports, Queen's Bench Cases.
" Ch.	" Chancery Appeal Cases.
Q. B. D.,	" Queen's Bench Division.
Ch. D.,	" Chancery Division.
Ex. D.,	" Exchequer Division.
1899, A. C.,	" 1899 Appeal Cases.
1899, 1 Ch.	" 1899, 1 Chancery Division.
1899, 2 Q. B.,	" 1899, 2 Queen's Bench Division.
T. L. R.,	Times Law Reports.

DIVISION I.
THE EDUCATION ACT, 1902.

DIVISION I.

THE EDUCATION ACT, 1902.

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THE EDUCATION ACT, 1902.*

2 Edward VII., chap. 42.

AN ACT to make further provision with respect to Education in England and Wales. [18th December 1902.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

LOCAL EDUCATION AUTHORITY.

Local education authorities.

1. For the purposes of this Act the council of every county and of every county borough shall be the local education authority :

Provided that the council of a borough with a population of over ten thousand, or of an urban district with a population of over twenty thousand, shall, as respects that borough or district, be the local education authority for the purpose of Part III. of this Act, and for that purpose as respects that borough or district, the expression "local education authority" means the council of that borough or district.

PART II.

HIGHER EDUCATION.

Power to aid higher education.

2.—(1) The local education authority shall consider the educational needs of their area and take such steps as seem to them desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary, and to promote the general co-ordination of all forms of education, and for that purpose shall apply all or so much as they deem necessary of the residue under section 1 of the Local Taxation (Customs and Excise) Act, 1890, and shall carry forward for the like purpose any balance thereof which may remain unexpended, and may spend such further sums as they think fit : Provided that the amount raised by the council of a county for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of twopence in the pound, or such higher rate as the county council, with the consent of the Local Government Board, may fix.

(2) A council, in exercising their powers under this Part of this Act, shall have regard to any existing supply of efficient schools or colleges, and to any steps already taken for the purposes of higher education under the Technical Instruction Acts, 1889 and 1891.

* For the annotated text of the Act, see p. 26.

Concurrent powers of smaller boroughs and urban districts.

3. The council of any non-county borough or urban district shall have power as well as the county council to spend such sums as they think fit for the purpose of supplying or aiding the supply of education other than elementary: Provided that the amount raised by the council of a non-county borough or urban district for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of one penny in the pound.

Religious instruction.

4.—(1) A council, in the application of money under this Part of this Act, shall not require that any particular form of religious instruction or worship or any religious catechism or formulary which is distinctive of any particular denomination shall or shall not be taught, used, or practised in any school, college, or hostel aided but not provided by the council, and no pupil shall, on the ground of religious belief, be excluded from or placed in an inferior position in any school, college, or hostel provided by the council, and no catechism or formulary distinctive of any particular religious denomination shall be taught in any school, college, or hostel so provided, except in cases where the council, at the request of parents of scholars, at such times and under such conditions as the council think desirable, allow any religious instruction to be given in the school, college, or hostel, otherwise than at the cost of the council: Provided that in the exercise of this power no unfair preference shall be shown to any religious denomination.

(2) In a school or college receiving a grant from, or maintained by, a council under this Part of this Act,

(a) A scholar attending as a day or evening scholar shall not be required, as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday school, place of religious worship, religious observance, or instruction in religious subjects in the school or college or elsewhere; and

(b) The times for religious worship or for any lesson on a religious subject shall be conveniently arranged for the purpose of allowing the withdrawal of any such scholar therefrom.

PART III.

ELEMENTARY EDUCATION.

Powers and duties as to elementary education.

5. The local education authority shall throughout their area have the powers and duties of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, and shall also be responsible for and have the control of all secular instruction in public elementary schools not provided by them, and school boards and school attendance committees shall be abolished.

Management of schools.

6.—(1) All public elementary schools provided by the local education authority shall, where the local education authority are the council of a county, have a body of managers consisting of a number of managers not exceeding four appointed by that council, together with a number not exceeding two appointed by the minor local authority.

Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.

(2) All public elementary schools not provided by the local education authority shall, in place of the existing managers, have a body of managers consisting of a

number of foundation managers not exceeding four appointed as provided by this Act, together with a number of managers not exceeding two appointed—

- (a) where the local education authority are the council of a county, one by that council and one by the minor local authority ; and
 - (b) where the local education authority are the council of a borough or urban district, both by that authority.
- (3) Notwithstanding anything in this section—
- (a) Schools may be grouped under one body of managers in manner provided by this Act ; and
 - (b) Where the local education authority consider that the circumstances of any school require a larger body of managers than that provided under this section, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.

Maintenance of schools.

7.—(1) The local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, and have the control of all expenditure required for that purpose, other than expenditure for which, under this Act, provision is to be made by the managers ; but, in the case of a school not provided by them, only so long as the following conditions and provisions are complied with :—

- (a) The managers of the school shall carry out any directions of the local education authority as to the secular instruction to be given in the school, including any directions with respect to the number and educational qualifications of the teachers to be employed for such instruction, and for the dismissal of any teacher on educational grounds, and if the managers fail to carry out any such direction the local education authority shall, in addition to their other powers, have the power themselves to carry out the direction in question as if they were the managers ; but no direction given under this provision shall be such as to interfere with reasonable facilities for religious instruction during school hours ;
- (b) The local education authority shall have power to inspect the school ;
- (c) The consent of the local education authority shall be required to the appointment of teachers, but that consent shall not be withheld except on educational grounds ; and the consent of the authority shall also be required to the dismissal of a teacher unless the dismissal be on grounds connected with the giving of religious instruction in the school ;
- (d) The managers of the school shall provide the school house free of any charge, except for the teacher's dwelling-house (if any), to the local education authority for use as a public elementary school, and shall, out of funds provided by them, keep the school house in good repair, and make such alterations and improvements in the buildings as may be reasonably required by the local education authority ; Provided that such damage as the local authority consider to be due to fair wear and tear in the use of any room in the school house for the purpose of a public elementary school shall be made good by the local education authority.
- (e) The managers of the school shall, if the local education authority have no suitable accommodation in schools provided by them, allow that authority to use any room in the school house out of school hours free of charge for any educational purpose, but this obligation shall not extend to more than three days in the week.

(2) The managers of a school maintained but not provided by the local education authority, in respect of the use by them of the school furniture out of school hours, and the local education authority in respect of the use by them of any room in the school house out of school hours, shall be liable to make good any damage caused to the furniture or the room, as the case may be, by reason of that use (other than damage arising from fair wear and tear), and the managers shall take care that, after the use of a room in the school house by them, the room is left in a proper condition for school purposes.

(3) If any question arises under this section between the local education authority and the managers of a school not provided by the authority, that question shall be determined by the Board of Education.

(4) One of the conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant shall be that it is maintained under and complies with the provisions of this section.

(5) In public elementary schools maintained but not provided by the local education authority, assistant teachers and pupil teachers may be appointed, if it is thought fit, without reference to religious creed and denomination, and, in any case in which there are more candidates for the post of pupil teacher than there are places to be filled, the appointment shall be made by the local education authority, and they shall determine the respective qualifications of the candidates by examination or otherwise.

(6) Religious instruction given in a public elementary school not provided by the local education authority shall, as regards its character, be in accordance with the provisions (if any) of the trust deed relating thereto, and shall be under the control of the managers: Provided that nothing in this subsection shall affect any provision in a trust deed for reference to the bishop or superior ecclesiastical or other denominational authority so far as such provision gives to the bishop or authority the power of deciding whether the character of the religious instruction is or is not in accordance with the provisions of the trust deed.

(7) The managers of a school maintained but not provided by the local education authority shall have all powers of management required for the purpose of carrying out this Act, and shall (subject to the powers of the local education authority under this section) have the exclusive power of appointing and dismissing teachers.

Provision of new schools.

8.—(1) Where the local education authority or any other persons propose to provide a new public elementary school, they shall give public notice of their intention to do so, and the managers of any existing school, or the local education authority (where they are not themselves the persons proposing to provide the school), or any ten rate-payers in the area for which it is proposed to provide the school, may, within three months after the notice is given, appeal to the Board of Education on the ground that the proposed school is not required, or that a school provided by the local education authority, or not so provided, as the case may be, is better suited to meet the wants of the district than the school proposed to be provided, and any school built in contravention of the decision of the Board of Education on such appeal shall be treated as unnecessary.

(2) If, in the opinion of the Board of Education, any enlargement of a public elementary school is such as to amount to the provision of a new school, that enlargement shall be so treated for the purposes of this section.

(3) Any transfer of a public elementary school to or from a local education authority shall for the purposes of this section be treated as the provision of a new school.

Necessity of schools.

9. The Board of Education shall, without unnecessary delay, determine, in case of dispute, whether a school is necessary or not, and, in so determining, and also in deciding on any appeal as to the provision of a new school, shall have regard to the interest of secular instruction, to the wishes of parents as to the education of their children, and to the economy of the rates; but a school for the time being recognised as a public elementary school shall not be considered unnecessary in which the number of scholars in average attendance, as computed by the Board of Education, is not less than thirty.

Aid grant.

10.—(1) In lieu of the grants under the Voluntary Schools Act, 1897, and under section ninety-seven of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there shall be annually paid to every local education authority, out of moneys provided by Parliament—

- (a) a sum equal to four shillings per scholar ; and
- (b) an additional sum of three halfpence per scholar for every complete twopence per scholar by which the amount which would be produced by a penny rate on the area of the authority falls short of ten shillings a scholar ; Provided that, in estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate shall be calculated upon the county rate basis, which, in cases where part only of a parish is situated in the area of the local education authority, shall be apportioned in such manner as the Board of Education think just.

But if in any year the total amount of parliamentary grants payable to a local education authority would make the amount payable out of other sources by that authority on account of their expenses under this Part of this Act less than the amount which would be produced by a rate of threepence in the pound, the parliamentary grants shall be decreased, and the amount payable out of other sources shall be increased by a sum equal in each case to half the difference.

(2) For the purposes of this section the number of scholars shall be taken to be the number of scholars in average attendance, as computed by the Board of Education, in public elementary schools maintained by the authority.

Foundation managers.

11.—(1) The foundation managers of a school shall be managers appointed under the provisions of the trust deed of the school, but if it is shown to the satisfaction of the Board of Education that the provisions of the trust deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.

(2) Any such order may be made on the application of the existing owners, trustees, or managers of the school, made within a period of three months after the passing of this Act, and after that period on the application of the local education authority or any other person interested in the management of the school, and any such order, where it modifies the trust deed, shall have effect as part of the trust deed, and where there is no trust deed shall have effect as if it were contained in a trust deed.

(3) Notice of any such application, together with a copy of the draft final order proposed to be made thereon, shall be given by the Board of Education to the local education authority and the existing owners, trustees, and managers, and any other persons who appear to the Board of Education to be interested, and the final order shall not be made until six weeks after notice has been so given.

(4) In making an order under this section with regard to any school, the Board of Education shall have regard to the ownership of the school building, and to the principles on which the education given in the school has been conducted in the past.

(5) The Board of Education may, if they think that the circumstances of the case require it, make any interim order on any application under this section to have temporary effect until the final order is made.

(6) The body of managers appointed under this Act for a public elementary school not provided by the local education authority shall be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the purpose of the trust deed.

(7) Where the receipt by a school, or the trustees or managers of a school, of any endowment or other benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only shall, in case of question, be regarded.

(8) The Board of Education may, on the application of the managers of the school, the local education authority, or any person appearing to them to be interested in the school, revoke, vary, or amend any order made under this section by an order made in a similar manner ; but before making any such order the draft thereof shall, as soon as may be, be laid before each House of Parliament, and, if within thirty days, being

days on which Parliament has sat, after the draft has been so laid before Parliament, either House resolves that the draft, or any part thereof, should not be proceeded with, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

Grouping of schools under one management.

12.—(1) The local education authority may group under one body of managers any public elementary schools provided by them, and may also, with the consent of the managers of the schools, group under one body of managers any such schools not so provided.

(2) The body of managers of grouped schools shall consist of such number and be appointed in such manner and proportion as, in the case of schools provided by the local education authority, may be determined by that authority, and in the case of schools not so provided, may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education.

(3) Where the local education authority are the council of a county, they shall make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction.

(4) Any arrangement for grouping schools not provided by the local education authority shall, unless previously determined by consent of the parties concerned, remain in force for a period of three years.

Endowments.

13.—(1) Nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof: Provided that, where under the trusts or other provisions affecting any endowment the income thereof must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority, the whole of the income or the part thereof, as the case may be, shall be paid to that authority, and, in case part only of such income must be so applied and there is no provision under the said trusts or provisions for determining the amount which represents that part, that amount shall be determined, in case of difference between the parties concerned, by the Board of Education; but if a public inquiry is demanded by the local education authority, the decision of the Board of Education shall not be given until after such an inquiry, of which ten days' previous notice shall be given to the local education authority and to the minor local authority and to the trustees, shall have been first held by the Board of Education at the cost of the local education authority.

(2) Any money arising from an endowment, and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council, shall be credited by the council in aid of the rate levied for the purposes of this Part of this Act in the parish or parishes which in the opinion of the council are served by the school for the purposes of which the sum is paid, or, if the council so direct, shall be paid to the overseers of the parish or parishes in the proportions directed by the council, and applied by the overseers in aid of the poor rate levied in the parish.

Apportionment of school fees.

14. Where before the passing of this Act fees have been charged in any public elementary school not provided by the local education authority, that authority shall, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers.

Schools attached to institutions.

15. The local education authority may maintain as a public elementary school under the provisions of this Act, but shall not be required so to maintain, any Marine school, or any school which is part of, or is held in the premises of, any institution in which children are boarded, but their refusal to maintain such a school shall not

render the school incapable of receiving a parliamentary grant, nor shall the school, if not so maintained, be subject to the provisions of this Act as to the appointment of managers, or as to control by the local educational authority.

Power to enforce duties under Elementary Education Acts.

16. If the local education authority fail to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900, or this Act, or fail to provide such additional public school accommodation within the meaning of the Elementary Education Act, 1870, as is, in the opinion of the Board of Education, necessary in any part of their area, the Board of Education may, after holding a public inquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by mandamus.

PART IV.

GENERAL.

Education committees.

17.—(1) Any council having powers under this Act shall establish an education committee or education committees, constituted in accordance with a scheme made by the council and approved by the Board of Education: Provided that if a council having powers under Part II. only of this Act determine that an education committee is unnecessary in their case, it shall not be obligatory on them to establish such a committee.

(2) All matters relating to the exercise by the council of their powers under this Act, except the power of raising a rate or borrowing money, shall stand referred to the education committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the education committee with respect to the matter in question. The council may also delegate to the education committee, with or without any restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3) Every such scheme shall provide—

- (a) for the appointment by the council of at least a majority of the committee, and the persons so appointed shall be persons who are members of the council, unless, in the case of a county, the council shall otherwise determine;
- (b) for the appointment by the council, on the nomination or recommendation, where it appears desirable, of other bodies (including associations of voluntary schools), of persons of experience in education, and of persons acquainted with the needs of the various kinds of schools in the area for which the council acts;
- (c) for the inclusion of women as well as men among the members of the committee;
- (d) for the appointment, if desirable, of members of school boards existing at the time of the passing of this Act as members of the first committee.

(4) Any person shall be disqualified for being a member of an education committee, who, by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the education committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

(5) Any such scheme may, for all or any purposes of this Act, provide for the constitution of a separate education committee for any area within a county, or for a joint education committee for any area formed by a combination of counties, boroughs, or urban districts, or of parts thereof. In the case of any such joint committee, it shall suffice that a majority of the members are appointed by the councils of any of

the counties, boroughs, or districts out of which or parts of which the area is formed.

(6) Before approving a scheme, the Board of Education shall take such measures as may appear expedient for the purpose of giving publicity to the provisions of the proposed scheme, and, before approving any scheme which provides for the appointment of more than one education committee, shall satisfy themselves that due regard is paid to the importance of the general co-ordination of all forms of education.

(7) If a scheme under this section has not been made by a council and approved by the Board of Education within twelve months after the passing of this Act, that Board may, subject to the provisions of this Act, make a provisional order for the purposes for which a scheme might have been made.

(8) Any scheme for establishing an education committee of the council of any county or county borough in Wales or of the county of Monmouth or county borough of Newport shall provide that the county governing body constituted under the Welsh Intermediate Education Act, 1889, for any such county or county borough shall cease to exist, and shall make such provision as appears necessary or expedient for the transfer of the powers, duties, property, and liabilities of any such body to the local education authority under this Act, and for making the provisions of this section applicable to the exercise by the local education authority of the powers so transferred.

Expenses.

18.—(1) The expenses of a council under this Act shall, so far as not otherwise provided for, be paid, in the case of the council of a county out of the county fund, and in the case of the council of a borough out of the borough fund or rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate, and in the case of the council of an urban district other than a borough in manner provided by section thirty-three of the Elementary Education Act, 1876, as respects the expenses mentioned in that section: Provided that—

- (a) the county council may, if they think fit (after giving reasonable notice to the overseers of the parish or parishes concerned), charge any expenses incurred by them under this Act with respect to education other than elementary on any parish or parishes which, in the opinion of the council, are served by the school or college in connection with which the expenses have been incurred; and
 - (b) the county council shall not raise any sum on account of their expenses under Part III. of this Act within any borough or urban district the council of which is the local education authority for the purposes of that Part; and
 - (c) the county council shall charge such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred by them in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school on the parish or parishes which, in the opinion of the council, are served by the school; and
 - (d) the county council shall raise such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred to meet the liabilities on account of loans or rent of any school board transferred to them, exclusively within the area which formed the school district in respect of which the liability was incurred, so far as it is within their area.
- (2) All receipts in respect of any school maintained by a local education authority, including any Parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, shall be paid to that authority.
- (3) Separate accounts shall be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit.

(4) Where under any local Act the expenses incurred in any borough for the purposes of the Elementary Education Acts, 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act shall be payable out of that fund or rate instead of out of the borough fund or rate.

(5) Where any receipts or payments of money under this Act are entrusted by the local education authority to any education committee established under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments shall be accounts of the local education authority, but the auditor of those accounts shall have the same powers with respect to managers as he would have if the managers were officers of the local education authority.

Borrowing.

19.—(1) A council may borrow for the purposes of the Elementary Education Acts, 1870 to 1900, or this Act, in the case of a county council as for the purposes of the Local Government Act, 1888, and in the case of the council of a county borough, borough, or urban district as for the purposes of the Public Health Acts, but the money borrowed by a county borough, borough, or urban district council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

(2) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough, borough, or urban district for the purpose of the limitation on borrowing under subsections two and three of section two hundred and thirty-four of the Public Health Act, 1875.

Arrangements between councils.

20. An authority having powers under this Act—

- (a) may make arrangements with the council of any county, borough, district, or parish, whether a local education authority or not, for the exercise by the council, on such terms and subject to such conditions as may be agreed on, of any powers of the authority in respect of the management of any school or college within the area of the council; and
- (b) if the authority is the council of a non-county borough or urban district, may, at any time after the passing of this Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish in favour of the council of the county any of their powers and duties under this Act, and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, shall, as respects those powers, be part of the area of the county council.

Provisional orders and schemes.

21.—(1) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to provisional orders), shall apply to any provisional order made under this Act as if it were made under that Act, but references to a local authority shall be construed as references to the authority to whom the order relates, and references to the Local Government Board shall be construed as references to the Board of Education.

(2) Any scheme or provisional order under this Act may contain such incidental or consequential provisions as may appear necessary or expedient.

(3) A scheme under this Act when approved shall have effect as if enacted in this Act, and any such scheme, or any provisional order made for the purposes of such a scheme, may be revoked or altered by a scheme made in like manner and having the same effect as an original scheme.

Provision as to elementary and higher education powers respectively.

22.—(1) In this Act and in the Elementary Education Acts the expression “elementary school” shall not include any school carried on as an evening school under the regulations of the Board of Education.

(2) The power to provide instruction under the Elementary Education Acts, 1870 to 1900, shall, except where those Acts expressly provide to the contrary, be limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education to scholars who, at the close of the school year, will not be more than sixteen years of age: Provided that the local education authority may, with the consent of the Board of Education, extend those limits in the case of any such school if no suitable higher education is available within a reasonable distance of the school.

(3) The power to supply or aid the supply of education other than elementary includes a power to train teachers, and to supply or aid the supply of any education except where that education is given at a public elementary school.

Miscellaneous provisions.

23.—(1) The powers of a council under this Act shall include the provision of vehicles or the payment of reasonable travelling expenses for teachers or children attending school or college whenever the council shall consider such provision or payment required by the circumstances of their area or of any part thereof.

(2) The power of a council to supply or aid the supply of education, other than elementary, shall include power to make provision for the purpose outside their area in cases where they consider it expedient to do so in the interests of their area, and shall include power to provide or assist in providing scholarships for, and to pay or assist in paying the fees of, students ordinarily resident in the area of the council at schools or colleges or hostels within or without that area.

(3) The county councillors elected for an electoral division consisting wholly of a borough or urban district whose council are a local education authority for the purpose of Part III. of this Act, or of some part of such a borough or district, shall not vote in respect of any question arising before the county council which relates only to matters under Part III. of this Act.

(4) The amount which would be produced by any rate in the pound shall be estimated for the purposes of this Act in accordance with regulations made by the Local Government Board.

(5) The Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891, as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to any assurance, within the meaning of the said Act of 1888, of land for the purpose of a school house for an elementary school.

(6) A woman is not disqualified, either by sex or marriage, for being on any body of managers or education committee under this Act.

(7) Teachers in a school maintained but not provided by the local education authority shall be in the same position as respects disqualification for office as members of the authority as teachers in a school provided by the authority.

(8) Population for the purposes of this Act shall be calculated according to the census of nineteen hundred and one.

(9) Subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relate to local inquiries), shall apply with respect to any order, consent, sanction, or approval which the Local Government Board are authorised to make or give under this Act.

(10) The Board of Education may, if they think fit, hold a public inquiry for the purpose of the exercise of any of their powers or the performance of any of their duties under this Act, and section seventy-three of the Elementary Education Act, 1870, shall apply to any public inquiry so held or held under any other provision of this Act.

Interpretation.

24.—(1) Unless the context otherwise requires, any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900, shall have the same meaning in this Act.

(2) In this Act the expression "minor local authority" means, as respects any school, the council of any borough or urban district, or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school. Where the school appears to the county council to serve the area of more than one minor local authority the county council shall make such provision as they think proper for joint appointment of managers by the authorities concerned.

(3) In this Act the expressions "powers," "duties," "property," and "liabilities" shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888.

(4) In this Act the expression "college" includes any educational institution, whether residential or not.

(5) In this Act, unless the context otherwise requires, the expression "trust deed" includes any instrument regulating the trusts or management of a school or college.

Provisions as to proceedings, transfer, etc., application of enactments and repeal.

25.—(1) The provisions set out in the First and Second Schedules to this Act relating to education committees and managers, and to the transfer of property and officers, and adjustment, shall have effect for the purpose of carrying the provisions of this Act into effect.

(2) In the application of the Elementary Education Acts, 1870 to 1900, and other provisions referred to in that schedule, the modifications specified in the Third Schedule to this Act shall have effect.

(3) The enactments mentioned in the Fourth Schedule to this Act shall be repealed to the extent specified in the third column of that schedule.

Application of Act to Scilly Islands.

26. For the purposes of this Act the Council of the Isles of Scilly shall be the local education authority for the Scilly Islands, and the expenses of the council under this Act shall be general expenses of the Council.

Extent, commencement, and short title.

27.—(1) This Act shall not extend to Scotland or Ireland, or, except as expressly provided, to London.

(2) This Act shall, except as expressly provided, come into operation on the appointed day, and the appointed day shall be the twenty-sixth day of March nineteen hundred and three, or such other day, not being more than eighteen months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provisions of this Act, and for different councils.

(3) The period during which local authorities may, under the Education Act, 1901, as renewed by the Education Act, 1901 (Renewal) Act, 1902, empower school boards to carry on the work of the schools and classes to which those Acts relate shall be extended to the appointed day, and in the case of London to the twenty-sixth day of March nineteen hundred and four.

(4) This Act may be cited as the Education Act, 1902, and the Elementary Education Acts, 1870 to 1900, and this Act may be cited as the Education Acts, 1870 to 1902.

SCHEDULES.

FIRST SCHEDULE.

PROVISION AS TO EDUCATION COMMITTEES AND MANAGERS.

A.—EDUCATION COMMITTEES.

(1) The council by whom an education committee is established may make regulations as to the quorum, proceedings, and place of meeting of that committee, but, subject to any such regulations, the quorum, proceedings, and place of meeting of the committee shall be such as the committee determine.

(2) The chairman of the education committee at any meeting of the committee shall, in case of an equal division of votes, have a second or casting vote.

(3) The proceedings of an education committee shall not be invalidated by any vacancy among its members or by any defect in the election, appointment, or qualification of any members thereof.

(4) Minutes of the proceedings of an education committee shall be kept in a book provided for that purpose, and a minute of those proceedings, signed at the same or next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting of the committee at which the minute is signed, shall be received in evidence without further proof.

(5) Until the contrary is proved, an education committee shall be deemed to have been duly constituted and to have power to deal with any matters referred to in its minutes.

(6) An education committee may, subject to any directions of the council, appoint such and so many sub-committees, consisting either wholly or partly of members of the committee, as the committee thinks fit.

B.—MANAGERS.

(1) A body of managers may choose their chairman, except in cases where there is an ex-officio chairman, and regulate their quorum and proceedings in such manner as they think fit, subject, in the case of the managers of a school provided by the local education authority, to any directions of that authority.

Provided that the quorum shall not be less than three, or one-third of the whole number of managers, whichever is the greater.

(2) Every question at a meeting of a body of managers shall be determined by a majority of the votes of the managers present and voting on the question, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(3) The proceedings of a body of managers shall not be invalidated by any vacancy in their number, or by any defect in the election, appointment, or qualification of any manager.

(4) The body of managers of a school provided by the local education authority shall deal with such matters relating to the management of the school, and subject to such conditions and restrictions, as the local education authority determine.

(5) A manager of a school not provided by the local education authority, appointed by that authority or by the minor local authority, shall be removable by the authority by whom he is appointed, and any such manager may resign his office.

(6) The body of managers shall hold a meeting at least once in every three months.

(7) Any two managers may convene a meeting of the body of managers.

(8) The minutes of the proceedings of every body of managers shall be kept in a book provided for that purpose.

(9) A minute of the proceedings of a body of managers, signed at the same or the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(10) The minutes of a body of managers shall be open to inspection by the local education authority.

(11) Until the contrary is proved, a body of managers shall be deemed to be duly constituted and to have power to deal with the matters referred to in their minutes.

SECOND SCHEDULE.

PROVISIONS AS TO TRANSFER OF PROPERTY AND OFFICERS, AND ADJUSTMENT.

(1) The property, powers, rights, and liabilities (including any property powers, rights, and liabilities vested, conferred, or arising under any local Act or any trust deed) of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board.

(2) Where, under the provisions of this Act, any council relinquishes its powers and duties in favour of a county council, any property or rights acquired and any liabilities incurred, for the purpose of the performance of the powers and duties relinquished, including any property or rights vested or arising, or any liabilities incurred, under any local Act or trust deed, shall be transferred to the county council.

(3) Any loans transferred to a council under this Act shall, for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act.

(4) Any liability of an urban district council incurred under the Technical Instruction Acts, 1889 and 1891, and charged on any fund or rate, shall, by virtue of this Act, become charged on the fund or rate out of which the expenses of the council under this Act are payable, instead of on the first-mentioned fund or rate.

(5) Section two of this Act shall apply to any balance of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, remaining unexpended and unappropriated by any council at the appointed day.

(6) Where the liabilities of a school board transferred to the local education authority under this Act comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may make such orders as they think fit for providing for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order, and, in case the money advanced to the school board has been money standing to the credit of any sinking fund or redemption fund or capital money applied under the Local Government Acts, 1888 and 1894, or either of them, for the repayment to the proper fund or account of the amount so advanced.

Any order of the Local Government Board made under this provision shall have effect as if enacted in this Act.

(7) Where a district council ceases by reason of this Act to be a school authority within the meaning of the Elementary Education (Blind and Deaf Children) Act, 1893, or the Elementary Education (Defective and Epileptic Children) Act, 1899, any property or rights acquired and any liabilities incurred under those Acts shall be transferred to the county council, and, notwithstanding anything in this Act, the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not), and transferred to the county council, off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred.

(8) Sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions), shall apply with respect to any transfer mentioned in this schedule, subject as follows:—

(a) References to "the appointed day" and to "the passing of this Act" shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect; and

(b) the powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under the provisions of this Act to exercise powers and duties, shall be deemed to be powers and duties transferred under this Act; and

(c) subsections four and five of section eighty-five shall not apply.

(9) The disqualification of any persons who are, at the time of the passing of this Act, members of any council, and who will become disqualified for office in consequence of this Act, shall not, if the council so resolve, take effect until a day fixed by the resolution, not being later than the next ordinary day of retirement of councillors in the case of a county council, the next ordinary day of election of councillors in the case of the council of a borough, and the fifteenth day of April in the year nineteen hundred and four in the case of an urban district council.

(10) No election of members of a school board shall be held after the passing of this Act, and the term of office of members of any school board holding office at the passing of this Act, or appointed to fill casual vacancies after that date, shall continue to the appointed day, and the Board of Education may make orders with respect to any matter which it appears to them necessary or expedient to deal with for the purpose of carrying this provision into effect, and any order so made shall operate as if enacted in this Act.

(11) Where required for the purpose of bringing the accounts of a school to a close before the end of the financial year of the school, or for the purpose of meeting any change consequent on this Act, the Board of Education may calculate any parliamentary grant in respect of any month or other period less than a year, and may pay any parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.

(12) Any parliamentary grant payable to a public elementary school not provided by a school board in respect of a period before the appointed day shall be paid to the persons who were managers of the school immediately before that day, and shall be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose shall be paid to the persons who are managers of the school for the purposes of this Act and shall be applied by them for the purposes for which provision is to be made under this Act by those managers, or for the benefit of any general fund applicable for those purposes; Provided that the Board of Education may, if they think fit, pay any share of the aid grant under the Voluntary Schools Act, 1897, allotted to an association of voluntary schools, to the governing body of that association, if such governing body satisfy the Board of Education that proper arrangements have been made for the application of any sum so paid.

(13) Any school which has been provided by a school board or is deemed to have been so provided shall be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be.

(14) The local education authority shall be entitled to use for the purposes of the school any school furniture and apparatus belonging to the trustees or managers of any public elementary school not provided by a school board, and in use for the purposes of the school before the appointed day.

(15) During the period between the passing of this Act and the appointed day, the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee, shall furnish to the council, which will on the appointed day become the local education authority, such information as that council may reasonably require.

(16) The officers of any authority whose property, rights, and liabilities are transferred under this Act to any council shall be transferred to and become the officers of that council, but that council may abolish the office of any such officer whose office they deem unnecessary.

(17) Every officer so transferred shall hold his office by the same tenure and on the same terms and conditions as before the transfer, and while performing the same duties shall receive not less salary or remuneration than theretofore, but if any such officer is required to perform duties which are not analogous to or which are an unreasonable addition to those which he is required to perform at the date of the transfer, he may relinquish his office, and any officer who so relinquishes his office, or whose office is abolished, shall be entitled to compensation under this Act.

(18) A council may, if they think fit, take into account continuous service under any school boards or school attendance committees in order to calculate the total period of service of any officer entitled to compensation under this Act.

(19) If an officer of any authority to which the Poor Law Officers' Superannuation Act, 1896, applies is under this Act transferred to any council, and has made the annual contributions required to be made under that Act, the provisions of that Act shall apply, subject to such modifications as the Local Government Board may by order direct for the purpose of making that Act applicable to the case.

(20) Any local education authority who have established any pension scheme, or scheme for the superannuation of their officers, may admit to the benefits of that scheme any officers transferred under this Act on such terms and conditions as they think fit.

(21) Section one hundred and twenty of the Local Government Act, 1888, which relates to compensation to existing officers, shall apply as respects officers transferred under this Act, and also (with the necessary modifications) to any other officers who, by virtue of this Act or anything done in pursuance or in consequence of this Act, suffer direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, in like manner as it applies to officers transferred under this Act, subject as follows:—

- (a) any reference in that section to the county council shall include a reference to a borough or urban district council; and
- (b) references in that section to "the passing of this Act" shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect; and
- (c) any reference to powers transferred shall be construed as a reference to property transferred; and
- (d) any expenses shall be paid out of the fund or rate out of which the expenses of a council under this Act are paid, and, if any compensation is payable otherwise than by way of an annual sum, the payment of that compensation shall be a purpose for which a council may borrow for the purposes of this Act.

(22) Section sixty-eight of the Local Government Act, 1894 (which relates to the adjustment of property and liabilities), shall apply with respect to any adjustment required for the purposes of this Act.

THIRD SCHEDULE.

MODIFICATION OF ACTS, ETC.

(1) References to school boards and school districts shall be construed as references to local education authorities and the areas for which they act, except as respects transactions before the appointed day, and except that in paragraph (2) of section nineteen of the Elementary Education Act, 1876, and in subsection (1) of section two of the Education Code (1890) Act, 1890, references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

(2) References to the school fund or local rate shall be construed as references to the fund or rate out of which the expenses of the local education authority are payable.

(3) In section thirty-eight of the Elementary Education Act, 1876, references to members of a school board shall be construed as references to members of the education committee, or of any sub-committee appointed by that committee for school attendance purposes.

(4) The power of making byelaws shall (where the local education authority is a county council) include a power of making different byelaws for different parts of the area of the authority.

(5) The following provision shall have effect in lieu of section five of the Elementary Education Act, 1891:

"The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area."

(6) The words "in the opinion of the Board of Education" shall be substituted for the words "in their opinion" in the first paragraph of section eighteen of the Elementary Education Act, 1870.

(7) Section ninety-nine of the Elementary Education Act, 1870, shall apply to the fulfilment of any conditions, the performance of any duties, and the exercise of any powers under this Act as it applies to the fulfilment of conditions required in pursuance of that Act to be fulfilled in order to obtain a parliamentary grant.

(8) A reference to the provisions of this Act as to borrowing shall be substituted in section fifteen of the Elementary Education Act, 1876, for the reference to section ten of the Elementary Education Act, 1873, and a reference to the Local Government Board shall be substituted for the second reference in that section to the Education Department, and also for the reference to the Education Department in section five of the Elementary Education (Blind and Deaf Children) Act, 1893.

(9) A reference to the provisions of this Act relating to the enforcement of the performance of the local education authority's duties by mandamus shall be substituted in section two of the Elementary Education Act, 1880, for the reference to section twenty-seven of the Elementary Education Act, 1876.

(10) The substitutions for school boards, school districts, school fund, and local rate made by this schedule shall, unless the context otherwise requires, be made in any enactment referring to or applying the Elementary Education Acts, 1870 to 1900, or any of them, so far as the reference or application extends.

(11) References in any enactment or in any provision of a scheme made under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, or the Elementary Education Acts, 1870 to 1900, to any provisions of the Technical Instruction Acts, 1889 and 1891, or either of those Acts shall, unless the context otherwise requires, be construed as references to the provisions of Part II. of this Act, and the provisions of this Act shall apply with respect to any school, college, or hostel established, and to any obligation incurred, under the Technical Instruction Acts, 1889 and 1891, as if the school, college, or hostel had been established or the obligation incurred under Part II. of this Act.

(12) The Local Government Board may, after consultation with the Board of Education, by order make such adaptations in the provisions of any local Act (including any Act to confirm a Provisional Order and any scheme under the Municipal Corporations Act, 1882, as amended by any subsequent Act) as may seem to them to be necessary to make those provisions conform with the provisions of this Act, and may also in like manner, on the application of any council who have power as to education under this Act and have also powers as to education under any local Act, make such modifications in the local Act as will enable the powers under that Act to be exercised as if they were powers under this Act.

Any order made under this provision shall operate as if enacted in this Act.

FOURTH SCHEDULE.

ENACTMENTS REPEALED.

PART I.

Session and Chapter.	Short Title.	Extent of Repeal.
52 & 53 Vict. c. 76.	The Technical Instruction Act, 1889.	The whole Act.
53 & 54 Vict. c. 60.	The Local Taxation (Customs and Excise) Act, 1890.	In section one, subsections two and three.
54 & 55 Vict. c. 4.	The Technical Instruction Act, 1891.	The whole Act.

PART II.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	Section four; section five except so far as it defines public school accommodation; section six; sections eight to thirteen; sections fifteen and sixteen; section eighteen from 'If at any time' to the end of the section; in section nineteen the words 'whether in obedience to any requisition or not'; sections twenty-nine to thirty-four; in section thirty-five the words 'a clerk and a treasurer' and other' and the words from 'but no such appointment' to 'member of the board'; sections forty to forty-eight; sections forty-nine to fifty-one; in section fifty-two the words 'under the provisions of this Act with respect to the appointment of a body of managers'; sections fifty-three to fifty-six; sections sixty to sixty-six; in section sixty-nine the words 'in the metropolis' and the words from 'appointed under this Act' to 'returns under this Act'; in section seventy-three the words 'of the school district' the words from '(if any) or if' to 'inquiry relates,' and the words 'or if there is no school board as a debt due from the rating authority'; sections seventy-seven and seventy-nine; sections eighty-seven, eighty-eight, and ninety; section ninety-three; the first proviso of section ninety-seven; the First Schedule; the Second Schedule, except the Third Part; the Third Schedule.
36 & 37 Vict. c. 86.	The Elementary Education Act, 1873.	Sections five to twelve; sections seventeen and eighteen; sections twenty-one and twenty-six; the First Schedule; the Second Schedule; the Third Schedule.
37 & 38 Vict. c. 90.	The Elementary Education (Orders) Act, 1874.	The whole Act.
39 & 40 Vict. c. 79.	The Elementary Education Act, 1876.	Section seven, from 'and (2) in every' to 'appointing the committee, and the words 'and school attendance committee'; in section fifteen the words 'not exceeding fifty'; section twenty-one; section twenty-three to 'or pay any fees'; section twenty-seven; in section twenty-eight, the words 'but subject in the case of a school attendance committee to the approval herein-after mentioned' and the words 'or the officers of the council or guardians by whom the committee are appointed'; sections thirty, thirty-one, thirty-two, thirty-three (except as applied by this Act), and thirty-four; section thirty-six; in section thirty-seven the words 'or local authority'; in section thirty-eight the words 'or local authority' and 'or school attendance committee'; sections forty-one, forty-two, forty-three, and forty-four; section forty-nine; the Second Schedule; the Third Schedule.
43 & 44 Vict. c. 23.	The Elementary Education Act, 1880.	Section three.
53 & 54 Vict. c. 22.	The Education Code (1890) Act, 1890.	Section one.
54 & 55 Vict. c. 56.	The Elementary Education Act, 1891.	Sections five, six, and seven.
56 & 57 Vict. c. 42.	The Elementary Education (Blind and Deaf Children) Act, 1893.	Section four from '(b) for an area' to the end of the section. Sub-sections (3) and (4) of section five. Section six.
59 & 60 Vict. c. 16.	The Agricultural Rates Act, 1896.	In section seven the words 'a school board for a school district which is a parish or,' and sub-section (3).
60 & 61 Vict. c. 5.	The Voluntary Schools Act, 1897.	Section one.
60 & 61 Vict. c. 16.	The Elementary Education Act, 1897.	The whole Act.
62 & 63 Vict. c. 32.	The Elementary Education (Defective and Epileptic Children) Act, 1899.	In section six the proviso.
63 & 64 Vict. c. 53.	The Elementary Education Act, 1900.	Section three.

THE EDUCATION ACT, 1902.*

2 Edward VII., chap. 42.

AN ACT to make further provision with respect to Education in England and Wales.

[18th December 1902.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

LOCAL EDUCATION AUTHORITY.

Local
Education
Author-
ities.

1. For the purposes of this Act¹ the council of every county² and of every county borough³ shall be the local education authority :

Provided⁴ that the council of a borough⁵ with a population of over ten thousand, or of an urban district⁶ with a population of over twenty thousand, shall, as respects that borough or district, be the local education authority for the purpose of Part III.⁸ of this Act, and for that purpose as respects that borough or district, the expression 'local education authority' means the council of that borough or district.⁹

Scheme of
the Act.

¹ The two main principles of the Act are laid down in its first paragraph. These two principles are (1) that all powers locally exercised over public education are in each locality concentrated in the hands

* For the text of the Act printed continuously without notes, see p. 9.

of a single body having jurisdiction over a wide area; (2) that these powers are to be exercised, not by a body newly-constituted for the special purposes of education, but by one already in existence, and in a position to correlate its newly acquired educational interests with the other interests, both educational and non-educational, over which it possesses local control. The rest of the Act may be regarded merely as the legislative machinery which is necessary in order to give effect, subject to certain qualifications arising out of the previous history of local government, to these two leading principles.

Notes to
Section 1.

It is in so far as it gives effect to these two principles that the Act may be described as one which provides the means for the co-ordination and improvement of primary, secondary, and higher education, and it was thus described in the King's Speech at the close of the session in which it was passed.

² The expression 'council of a county' derives its meaning from the Local Government Act, 1888, which provided by §1 that a council should be established in every administrative county as defined by that Act, and be entrusted with the management of the administrative and financial business of that county, and should consist of the chairman, aldermen, and councillors.

Council of
a county.

³ By §31 of the Local Government Act, 1888, sixty-one boroughs which were already counties of themselves, or had populations of not less than fifty thousand, were constituted county boroughs, and a list of them is given in Schedule III. of the Act. The same section provided that each of such county boroughs was to be for the purposes of that Act an administrative county of itself, but that for all other purposes it was to continue to be part of the county (if any) in which it was situate at the passing of that Act.

'County
borough.'

Between the commencement of the Act and the present date eight boroughs have been constituted county boroughs in pursuance of §54 of the Act.

By §100 of the Local Government Act, 1888, 'administrative county' is defined as follows:—

Adminis-
trative
county.

The expression 'administrative county' means the area for which a county council is elected in pursuance of this Act, but does not (except where expressly mentioned) include a county borough.

The express enactment that the council of every county borough shall be the local education authority for the purposes of this Act, prevents any county borough from being part of the county for any administrative purpose, imposed on the local education authority by the Education Act, 1902, and accordingly the expression 'administrative county,' when it relates to the area of a local education authority, will include a county borough only whenever it is necessary for the purposes of this Act that it shall do so.

The effect, therefore, of the section is to place the administrative county of each county borough under the council of that borough, as the local education authority, and the administrative county of each county under the county council, as the local education authority.

By §27 (1) it is provided that this Act shall not extend, except as expressly provided, to London. In order that the provision of local education authorities may include all areas excepting London, it is

Exclusion of
London.

**Notes to
Section 1.**

necessary to read 'London' here as meaning the area excluded from the jurisdiction of all other county councils and county borough councils at the time of the passing of this Act, and therefore as meaning the area of the city and the administrative county of London at that date, *i.e.* the area as settled by virtue of §§15 to 20 of the London Government Act, 1899, and the orders made thereunder.

By §100 of the Local Government Act, 1888, the expression 'county' does not include a county of a city or county of a town.

**Autonomous
areas for
elementary
education.**

⁴ This proviso states the principal qualification referred to in note 1. It is to be noted however that §20 (b) of the Act provides that, in the case of an authority which is the council of a non-county borough or urban district, the authority may, at any time after the passing of the Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish in favour of the council of the county any of their powers and duties under the Act; and that, in that case, the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, shall as respects those powers be part of the area of the county council. *See the note to §20 (b), infra.*

It is mainly owing to the existence of the independent powers under Part III. of the Act (*i.e.* powers as to elementary education) which are given by this proviso that it is necessary to attempt to draw a statutory distinction (as is done in §22 of this Act) between 'elementary education' and 'education other than elementary.'

'Borough'

⁵ By §15 of the Interpretation Act, 1889, the expression 'borough,' when used in relation to local government, means a municipal borough, and the expression 'municipal borough,' as respects England and Wales, means

'any place for the time being subject to the Municipal Corporations Act, 1882, and any reference to the mayor, aldermen, and burgesses of a borough shall include a reference to the mayor, aldermen, and citizens of a city, and any reference to the powers, duties, liabilities, or property of the council of a borough shall be construed as a reference to the powers, duties, liabilities, or property of the mayor, aldermen, and burgesses of the borough acting by the council.'

**'Council of
a borough.'**

By §10 of the Municipal Corporations Act, 1882, the council of a borough consists of the mayor, aldermen, and councillors, and exercises all powers vested in the corporation by that Act, or otherwise, including (by §250) all powers conferred by charter.

**Urban
districts.**

⁶ Urban sanitary authorities, the predecessors of urban district councils, were created by §5 of the Public Health Act, 1875, which enacted that England except the Metropolis should consist of districts to be called respectively urban sanitary districts and rural sanitary districts, and that such districts should respectively be subject to authorities called 'urban sanitary authorities' and 'rural sanitary authorities' invested with the powers in that Act mentioned.

The expressions 'district council' and 'county district' were defined by §100 of the Local Government Act, 1888, to mean

'any district council established for purposes of local govern-

'ment under an Act of any future session of Parliament and
'the district under the management of such council';

Notes to
Section 1.

and the expression 'urban authority' was defined to mean

'until the establishment of district councils, an urban sanitary
'authority, and after their establishment, the district council
'of an urban county district.'

The Local Government Act, 1894, §21, provided that, as from the appointed day under that Act,

'urban sanitary authorities shall be called urban district
'councils, and their districts shall be called urban districts,
'but nothing in this section shall alter the style or title of
'the corporation or council of a borough,'

Urban
district
council.

and it is provided that in that and every other Act of Parliament, unless the context otherwise requires, the expression 'district council' shall include the council of every urban district whether a borough or not, and of every rural district, and the expression 'county district' shall include every urban and rural district whether a borough or not.

The area of any urban sanitary district accordingly became under the Local Government Act, 1894, an urban county district; if within a city or borough it is governed by the City or Town Council, if outside a borough by the Urban District Council. The districts which existed prior to the coming into operation of the Local Government Act, 1894, have been considerably modified by orders made under §36 of that Act.

⁷ It is provided by §23 (8) that population for the purposes of this Act is to be calculated according to the census of 1901.

'Popula-
tion.'

It appears that, exclusive of the Scilly Islands (*see* §26) and of London (*see* §27 (1) and the note thereon) there are 61 county councils and 69 county borough councils, which are local education authorities for all purposes of the Act, and 139 non-county borough councils and 63 urban district councils which are local education authorities for the purpose of Part III. of the Act.

Number of
authorities.

A list of these authorities and a map showing their distribution over England and Wales will be found at the end of the book immediately after the Index.

List and
map.

⁸ In view of the fact that the council of a borough or urban district, acting as a local education authority under this proviso, is independent, so far as its functions under Part III. of the Act are concerned, of the county council, it is provided by §23 (3) of the Act (p. 149) that the county councillors elected for an electoral division, consisting wholly of such a borough or urban district, or of some part thereof, shall not vote in respect of any question arising before the county council which relates only to matters under Part III. of this Act.

Voting of
representa-
tive of
autonomous
district.

An analogous disqualification as respects the representatives on the county council of the larger quarter-sessions boroughs is enacted by §35 (6) of the Local Government Act, 1888.

⁹ Each of the bodies which becomes a local education authority is a corporation having perpetual succession and a common seal, and various powers, including some relating to education, which (so far as they are not abolished by this Act) it will continue to be capable of exercising in addition to the powers which it now receives. The

Corporate
capacity
of local
education
authority.

Section 2. council of a borough, whether a county borough or not, exercises by §10 of the Municipal Corporations Act, 1882, all powers vested in the corporation (*see* note 5, *supra*, p. 28).

Power to acquire land. When the corporation has not power to purchase or acquire land or to hold land in mortmain, the council may, by §107 of that Act, as amended, purchase or acquire land in such manner and on such terms and conditions as the Local Government Board approve, and the same may be conveyed to the corporation and held by them accordingly. By §65 of the Local Government Act, 1888, a county council may for the purpose of any of their powers and duties acquire, purchase, or take on lease any lands or rights over lands whether within or without the county.

Every district council is a body corporate and has perpetual succession and a common seal and may hold land without licence in mortmain, in the case of urban district councils 'for the purposes of 'the Public Health Act, 1875' (*see* §§7 and 175 of that Act), and in the case of rural district councils 'for the purposes of their powers and duties' (Local Government Act, 1894, §24 (7)).

In addition to any powers so belonging to it each council which becomes an authority for the purpose of Part III. of this Act will also by §5 have all the powers of a school board as to holding land (*see* Elementary Education Act, 1870, §§19, 20 and 23) and of being constituted a trustee of any educational endowment or charity for purposes connected with education, subject to the provisions of §13 of the Elementary Education Act, 1873 (p. 269). By 33 and 34 Vict. c. 34, §1, a corporation may invest money held in trust for any charitable or public purpose, on any real security consistent with the trust without being deemed thereby to have acquired land.

Any assurance to any of these councils will by the Mortmain Act Amendment Act, 1892, §1, be within the exemptions contained in §6 of the Mortmain Act, 1888. (*See* pp. 528, 535.) As to an assurance for an elementary school, *see* §23 (5), *infra*.

PART II.

HIGHER EDUCATION.

Power to aid higher education.

2.—(1) The local education authority¹ shall² consider the educational needs of their area and take such steps as seem to them desirable, after consultation with the Board of Education, to supply or aid the supply of education other than elementary,³ and to promote the general co-ordination⁴ of all forms of education, and for that purpose shall apply all or so much as they deem necessary of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890,⁵ and shall carry forward for the

like purpose any balance thereof which may remain unexpended, and may spend such further sums as they think fit: Provided that the amount raised by the council of a county for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced⁶ by a rate of two-pence in the pound, or such higher rate as the county council, with the consent of the Local Government Board, may fix.⁷

(2) A council, in exercising their powers under this Part of this Act,⁸ shall have regard to any existing supply of efficient schools or colleges, and to any steps already taken for the purposes of higher education under the Technical Instruction Acts, 1889 and 1891.⁹

¹ The local education authority, for the purposes of this Part of the Act, must be either a council of a county or a council of a county borough (*see* §1, *supra*, p. 26).

² Prior to the passing of the Education Act, 1902, all public general Acts relative to the powers of local authorities to supply or aid the supply of education other than elementary were permissive only. The present Act imposes for the first time a positive obligation upon local authorities to 'consider the educational needs 'of their area,' and to take such steps in the matter as seem to them, after consultation with the Board of Education, desirable. Further, it directs the special allocation of certain funds (*see* note 5 *infra*) to this purpose and no other.

³ Under §22 (3) of the Act, the power to supply or aid the supply of education other than elementary, includes a power to train teachers, and to supply or aid the supply of any education, except where that education is given at a public elementary school. The only kind of instruction other than elementary which could be aided by local authorities prior to the passing of the Education Act, 1902 (putting aside the education given under the Welsh Intermediate Education Act, 1889, or by councils possessing special powers under local Acts, which are not referred to in this note), was instruction falling within the definitions of technical and manual instruction in §8 of the Technical Instruction Act, 1889. These definitions were as follows:—

The expression 'technical instruction' shall mean instruction in the principles of science and art applicable to industries, and in the application of special branches of science and art to specific industries or employments. It shall not include teaching the practice of any trade or industry or employment, but, save as aforesaid, shall include instruction in the branches of science and art with respect to which grants are for the time being

Section 2.

52 & 53
Vict. c. 76.
54 & 55
Vict. c. 4

Local
education
authority.

New obliga-
tion as to
Higher
Education.

Removal of
restrictions
on educa-
tion aided.

**Notes to
Section 2.**

made by the Department of Science and Art, and any other form of instruction (including modern languages and commercial and agricultural subjects), which may for the time being be sanctioned by that Department by a minute laid before Parliament and made on the representation of a local authority that such a form of instruction is required by the circumstances of its district.

The expression 'manual instruction' shall mean instruction in the use of tools, processes of agriculture, and modelling in clay, wood, or other material.

It will be observed that the meaning which might be given to the expression 'technical instruction' in virtue of the above provisions was capable of considerable extension, but there were subjects of higher education (*e.g.* Latin and Greek) which the Science and Art Department (now the Board of Education) declined to sanction as not being within the scope of the Act, and many local authorities, from prudential or economical considerations, took a somewhat narrow view of the powers given them by the Act.

The repeal of the provisions of the Technical Instruction Act, and the wide definition of the power to supply or aid the supply of education other than elementary which is given by §22 (3) of the Act (p. 143), removes every restriction previously existing upon the kind of higher education which the councils of counties, boroughs, and urban districts may aid.

**Removal
of other
restrictions
and condi-
tions.**

In addition to the removal of all previous restrictions upon the kind of higher education which may be aided by the local authority, the present Act removes certain statutory restrictions which were attached as conditions to the giving or receiving of such aid as could be given under the Technical Instruction Acts.

The most important of these changes is the abolition of the penny limit to the rate which was imposed by §1 (1) (g) of the Technical Instruction Act, 1889. No limit is fixed by the present Act to the rate which may be raised for the purposes of higher education in county boroughs, and in counties the limit is raised to twopence, or such higher limit as the county council, with the consent of the Local Government Board, may fix. With regard to the last-mentioned limit—if, in view of the specific provision made for its extension, it can properly be called a 'limit'—it may be remarked that, as a consequence of the decisions in the cases of *R. v. Cockerton* (p. 197), and *Dyer and others v. the School Board for London* (p. 365), and of the provisions of §22 (1) and (2) (p. 143) of this Act, certain forms of education (*viz.* (1) any instruction given in a public elementary school more advanced than the instruction which may legally be given in such a school, (2) evening schools, (3) schools or classes attended by pupil-teachers) will now become a charge upon the moneys available for the purpose of 'education other than elementary.' From such statistics as have been published, however, it does not appear that the total annual cost of these forms of education in any area is equivalent to the produce of a penny rate over the area.

Other provisions of the Technical Instruction Act, 1889, not continued by the present Act, were the provisions giving power to the Science and Art Department to determine any question which might arise as to the sufficiency of the provision for technical or manual instruction made by the local authority under that Act, or as to the qualification of any school or institution to participate in any such provision, or as to the amount to be allotted to each school or institution, or as to the extent to which, or mode in which, the local authority was to be represented on the governing body of any such school or institution.

Notes to
Section 2.

The Technical Instruction Act, 1889, further provided that the local authority should have a representation upon the governing body of any aided school or institution, proportionate to the amount of the aid given; that the managers of any aided school or institution should render to the local authority such accounts relating to the application of the money granted in aid, so audited and verified, as the local authority might require; and that no provision, out of any rate made under that Act, should be made in aid of technical or manual instruction in any school conducted for private profit.

With regard, however, to the removal of the above-mentioned restrictions, it may be pointed out that it is within the discretion of a council having powers under Part II. of the present Act to determine, subject to such conditions as are expressly laid down by the Act, or may be prescribed by competent authority (*see* the note to Schedule III. 11, *infra*, *ad fin.*), the conditions upon which they will make grants to any school or college.

It will be observed that by §8 of the Technical Instruction Act, 1889, the expression 'technical instruction' was not to include 'teaching the practice of any trade or industry or employment.' Accordingly it was the practice of the Science and Art Department, when sanctioning, by minute, some specialised form of scientific or commercial instruction applicable to a specific industry, to state that their minute was issued on the understanding that the instruction would be confined to showing the students the best methods of working, and practising them in those methods so far as might be necessary for such instruction, and to point out that any instruction which went beyond teaching the principles involved, or in which practice was extended with a view to give the manual dexterity of a workman, would be contrary to the Act.

Teaching
of trades.

The power to supply or aid the supply of education other than elementary is defined by §22 (3) of the present Act to include a power to supply or aid the supply of 'any education except where that education is given at a public elementary school,' and to supply or aid the supply of the teaching of the practice of a trade is not expressly excluded by that or any other provision of the Act, and such teaching may therefore be supplied or aided when it can properly be termed 'education.' In its ordinary sense, however, the term 'education' is less apt to describe the teaching of a trade than is the term 'instruction' which it has replaced, and it is probably on this account that it has been thought unnecessary to continue the express provision in the Technical Instruction Acts that such teaching was not to be supplied or aided.

**Notes to
Section 2.**Co-ordina-
tion.'Residue
'grant.'

⁴ As to the general co-ordination of all forms of education, *see* note 1 to §1 (p. 26), and §17 (6) (p. 108) and the note thereon.

⁵ Section 1 of the Local Taxation (Customs and Excise) Act, 1890, under which the 'residue grant,' otherwise known as the 'whisky money,' became payable, provided as follows (p. 354):—

- (1) Out of the English share of the local taxation (customs and excise) duties paid to the local taxation account on account of any financial year—
 - (a) The sum of three hundred thousand pounds shall be applied for such purposes of police superannuation in England as hereinafter mentioned;
 - (b) The residue shall, unless Parliament otherwise determines, be distributed between county and county borough funds, and carried to the Exchequer contribution accounts of those funds respectively, and applied under the Local Government Act, 1888, as if it were part of the English share of the local taxation probate duty, and shall be the subject of an adjustment between counties and county boroughs, according to section thirty-two of the said Act, by the Commissioners under that Act.

Subsections (2) and (3) of the above section, and §§2 and 3 of the Technical Instruction Act, 1891 (all now repealed, *see* pp. 354 to 357), made this grant available for the purposes of technical and manual instruction under the Technical Instruction Acts, and exempted from application under §23 of the Local Government Act, 1888, until the county or county borough council should have made an order for such application, any balance of the grant, which had been directed by the council to be appropriated or to be set aside for the purposes of such instruction, but had not been expended or specifically contributed or allotted in whole or in part before the end of the financial year.

The application of the grant and the reservation of the balance thereof to those purposes were permissive. The present Act makes the application of the grant to the purposes of higher education obligatory, and it makes obligatory the carrying forward of any unexpended balance of the grant for the same purposes.

As to the application of any balance of the grant remaining unexpended and unappropriated at the appointed day, *see* Schedule II. (5), *infra*.

Produce
of rate.

⁶ It is provided by §23(4) of this Act, that the amount which would be produced by any rate in the pound shall be estimated for the purposes of the Act in accordance with regulations made by the Local Government Board (p. 149).

The Board of Education have stated that where a borough or urban district council relinquishes to the county its powers under Part II. of the Act, the county council can raise an additional rate for that borough or district not exceeding a penny in the pound.

Application
of public
money to
Higher
Education.

⁷ The growth of the system of grants of public money from imperial and local funds in aid of higher education is shown in the following chronological summary.

In 1835, a select committee of the House of Commons was

appointed 'to inquire into the best means of extending a knowledge of the arts and of the principles of design among the people (especially the manufacturing population) of the country.'

Notes to
Section 2.

In 1841, after certain preliminary steps had been taken to give effect to the recommendations which had been made by this committee, the Government decided to aid the formation and maintenance of Schools of Design in the manufacturing districts, the necessary steps for the purpose being taken by the Board of Trade.

Application
of public
money to
higher
education.

In 1852, a 'Department of Practical Art' was constituted, and in 1853 the scope of the department was extended and it was named the 'Department of Science and Art.'

This department remained under the control of the Board of Trade till 1856, when the Education Department was constituted by Order in Council to include '(a) The Educational Establishment of the Privy Council Office; (b) The Establishment for the encouragement of science and art now under the direction of the Board of Trade, and called the Department of Science and Art.' See note 1 to §2 of the Board of Education Act, 1899, p. 392.

The first step in the process of making local rates applicable to higher education was taken in 1855, when the first of the Public Libraries Acts was passed. Under these Acts local authorities have been enabled to levy a rate, to an amount not exceeding 1d. in the pound for any one financial year, towards the provision of public libraries, museums, and schools of science and art.

In the decade 1870 to 1880, school boards were established in most of the important industrial centres, under the Elementary Education Act, 1870. In the early years of this decade the grant to public elementary schools under the Day School Code of the Education Department being small, and the requirements of the Code modest, a considerable part of the now rapidly increasing amounts paid annually by the Science and Art Department was obtained by managers of such schools (both board and voluntary) in respect of the older children in attendance. The rate of grant which was payable, and the number of subjects which were compulsory, under the Code, were gradually increased, and the grants from the Science and Art Department became correspondingly restricted to children who were in, or who had passed through, the highest standards. These grants naturally, in these circumstances, gradually became payable to a less extent to the managers of voluntary schools, who for the most part had not the means, even when they had the desire, to provide anything in the nature of secondary education, but in the absence of any public provision for such education the school boards took advantage of the science and art grants to extend the elementary education, which they had been called into existence to provide, into the spheres of secondary and technical education.

The Education Code (1890) Act, 1890 (see the note to §1 of that Act, p. 315), provided that it should not be required as a condition of a Parliamentary grant to an evening school, that elementary education should be the principal part of the education there given. This Act, together with the issue of a separate code for evening schools in 1894, in which the previously existing limit to the age of the students in respect of whom the Parliamentary grant was payable

Notes to
Section 2.

was removed, naturally led to a very great development of the evening school system; and, since these schools were conducted, technically, as public elementary schools, the rates raised under the Elementary Education Acts were freely applied by school boards, especially in the large towns, to their maintenance. The grants of the Science and Art Department were also available for evening schools and classes in science and art, whether conducted by school boards, town councils, or other public or voluntary committees of managers.

Meanwhile public or quasi-public funds were being gradually made available for the purposes of secondary education, properly so called, by the exercise by the Charity Commissioners of their powers of regulating educational endowments under the Endowed Schools Acts, and of making certain non-educational endowments applicable to educational purposes. Further, a considerable number of endowed and other secondary schools, during the quarter of a century following the passing of the Endowed Schools Act, 1869, adapted their curriculum to the conditions necessary to enable them to participate in the grants of the Science and Art Department. That Department had, since 1872, made grants on a high scale to schools giving methodical and systematic instruction in a scientific curriculum, but the large amount of science required in order to make the school eligible for the receipt of these grants has up till lately prevented them from being available for secondary schools of the ordinary type. Some relaxation of these requirements with a corresponding diminution of the grants was allowed by the Board of Education's regulations in 1901, but the curriculum required as a condition of the grants still remains predominantly scientific. (For the current conditions of these grants, *see* pp. 638 to 645.)

The passing of the Local Government Act, 1888, first made possible the local organisation of higher education on a systematic basis. Under that Act the whole country was placed for the first time under authorities, exercising jurisdiction over wide areas, in the hands of which were concentrated most of the principal functions of local government.* The county and county borough councils constituted under the Act, were, by the Technical Instruction Act, 1889, empowered to supply or aid the supply of technical and manual instruction, and to levy a rate, not exceeding a penny in the pound, for the purpose. (For the meaning to be attached to the expressions 'technical instruction,' and 'manual instruction,' *see* note 3, *supra*.) Concurrent powers of levying a penny rate were also given to non-county borough councils and other urban sanitary authorities. Cf. §3 of the present Act (p. 37).

Under the Local Taxation (Customs and Excise) Act, 1890, and the Technical Instruction Act, 1891, the 'residue grant' under the former Act, commonly known as the 'whisky money,' was made applicable at the option of county and county borough councils to the purposes of technical and manual instruction (*see* note 5, *supra*).

Under the provisions of the Acts mentioned in the last two paragraphs the organisation of secondary and technical education has

* In Wales and Monmouthshire advantage was at once taken of the new authorities and areas to organise, by means of the Welsh Intermediate Education Act, 1889, pp. 447 to 455, a system of public secondary education, in favour of which there had for several years been a popular movement.

proceeded on the basis of the county and county borough area (*see* Section 3. Clause VII. of the Board of Education's Regulations for Secondary Day Schools, p. 637); and although, in strictness, assistance out of the funds thus available could only be given to secondary schools in so far as they taught some subject or subjects included in the expressions 'technical' or 'manual instruction' as defined in the Technical Instruction Acts, the county and county borough councils have found it possible to give some assistance out of these funds to secondary education properly so-called. (For the effect of the present Act upon the system which was then being established, *see* note 3, *supra*.)

⁸ Councils of non-county boroughs and of urban districts have by §3 powers under this part of this Act, and are therefore included in this subsection.

Councils exercising powers under Part II.

⁹ In cases where a county council have entered into arrangements with the council of a non-county borough or of an urban district for supplying or aiding the supply of education under the Technical Instruction Acts, 1889 and 1891, both councils will be bound to have regard to the steps already taken in the exercise of their powers under this Part of this Act. In cases where property has been acquired or liabilities incurred pursuant to any arrangement between the two councils, the county council will be bound to have regard to the terms of such arrangement in deciding what share of the county rate or of the whisky money shall be allotted to the area in question, and how it shall be employed, and the council of the non-county borough or urban district will be bound to have regard to the terms of such arrangement in levying and spending any sum raised under §3, and the duty of the county council to have such regard may if necessary be enforced by an order under §16.

Regard to existing arrangements.

3. The council of any non-county borough or urban district shall have power as well as the county council to spend such sums as they think fit for the purpose of supplying or aiding the supply of education other than elementary: Provided that the amount raised by the council of a non-county borough or urban district for the purpose in any year out of rates under this Act shall not exceed the amount which would be produced by a rate of one penny in the pound.¹

Concurrent powers of smaller boroughs and urban districts.

¹ This section states the second most important qualification to the 'single authority' principle of the Act. *See* notes 1 and 4 to §1, *supra*. Under §4 (1) of the Technical Instruction Act, 1889 (p. 351), the council of every non-county borough, and every urban sanitary authority possessed concurrent powers with the county council of supplying or aiding the supply of technical and manual instruction, and of raising a penny rate for the purpose. The liberty of action which these councils have possessed under the Technical Instruction Acts, and of which many have availed themselves to the fullest extent

Concurrent powers.

Section 4. possible within the penny rate limit, is continued to them by this section, and within that limit the kind of education which they may supply or aid, and the conditions on which they may supply or aid it, are no longer subject to the restrictions imposed by the Technical Instruction Acts. *See* note 3 to §2, *supra*.

The council of a non-county borough or urban district in the area of a county council is not a 'local education authority' for the purposes of higher education, and will be dependent upon the county council for aid out of the 'whisky money' (*see* note 5 to §2), and for the raising in its district, by authority of the county council, of any rate for those purposes in excess of the limit imposed by this section.

As to the order appointing the 'appointed day' for the purposes of this section, *see* note to §27 (2), *infra*.

**Religious
instruc-
tion.**

4.—(1) A council, in the application of money under this Part of this Act, shall not require that any particular form of religious instruction or worship or any religious catechism or formulary which is distinctive of any particular denomination shall or shall not be taught, used, or practised in any school, college, or hostel aided but not provided by the council, and no pupil shall, on the ground of religious belief, be excluded from or placed in an inferior position in any school, college, or hostel provided by the council, and no catechism or formulary distinctive of any particular religious denomination shall be taught in any school, college, or hostel so provided, except in cases where the council, at the request of parents of scholars, at such times and under such conditions as the council think desirable, allow any religious instruction to be given in the school, college, or hostel, otherwise than at the cost of the council: Provided that in the exercise of this power no unfair preference shall be shown to any religious denomination.

(2) In a school or college receiving a grant from, or maintained by, a council under this Part of this Act,

(a) A scholar attending as a day or evening scholar shall not be required, as a condition of being admitted into or remaining in the school or college, to attend or abstain from attending any Sunday-school,

place of religious worship, religious observance, or instruction in religious subjects in the school or college or elsewhere; and

Section 4.

- (b) The times for religious worship or for any lesson on a religious subject shall be conveniently arranged for the purpose of allowing the withdrawal of any such scholar therefrom.¹

¹ This section makes applicable to all schools or colleges receiving a grant from or maintained by the council under this Part of the Act conditions in respect of day or evening scholars as to religious instruction similar to those imposed upon public elementary schools by the 'Conscience Clause' (§7 of the Elementary Education Act, 1870).

Application of Conscience Clause in colleges maintained.

It further makes applicable to all schools, colleges, or hostels provided by the council, subject to one exception, conditions as to the kind of religious instruction which may be given similar to those imposed upon public elementary schools provided by a school board by the 'Cowper-Temple Clause' (§14 (2) of the Elementary Education Act, 1870).

Application of Cowper-Temple Clause in colleges provided.

The exception is that a catechism or formulary distinctive of a particular denomination may be taught in any school, college, or hostel provided by the council, in cases where the council, at the request of parents of scholars, at such times and under such conditions as the council think desirable, allow any religious instruction to be given in the school, college, or hostel, otherwise than at the cost of the council.

Exception.

PART III.

ELEMENTARY EDUCATION.

5. The local education authority¹ shall throughout their area have the powers and duties² of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, and shall also be responsible for and have the control³ of all secular instruction in public elementary schools not provided by them,⁴ and school boards and school attendance committees shall be abolished.

Powers and duties as to elementary education.

¹ The term 'local education authority,' as used in Part III. of the Act, and in the notes to that Part except where otherwise expressly

**Notes to
Section 5.**

mentioned, means the local education authority for the purpose of Part III. of the Act, that is to say, in a county borough, or in a non-county borough with a population of over 10,000, the borough council, in an urban district with a population of over 20,000 the urban district council, and in all other areas the council of the county. See §1, and the notes thereon.

**Powers and
duties of
local
education
authority.**

² By §24 (3) (p. 153) it is provided that the expressions 'powers' and 'duties' shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888. The hundredth section of that Act provides that—

The expression 'powers' includes rights, jurisdiction, capacities, privileges, and immunities: and the expression 'duties' includes responsibilities and obligations.

The local education authority will therefore have, after the 26th March 1903, or such other day as may have been appointed for them under §27 (2), all the powers and duties, as so defined, of school boards not only within those parts of their area which were previously school districts under school boards, but also in all other parts of their area.

The primary duty of a school board was to supply in their school district any deficiency in the amount of 'public school accommodation,' i.e. accommodation in public elementary schools available for all the children resident in such district for whose elementary education efficient and suitable provision was not otherwise made, and when any school had been provided or was deemed to have been provided by them, to control and manage it in accordance with the Elementary Education Acts, and to maintain it and keep it efficient.

These duties will on the 'appointed day' devolve upon the local education authority. In relation to these duties the school board were given the powers required for the purpose of fulfilling them, viz.: powers to acquire and hold land, to provide buildings, furniture, apparatus, and material, to accept transfers of schools or educational endowments which would assist them in performing their duties, and to receive and apply money in providing schools, and in maintaining, and keeping efficient any school so provided.

The Elementary Education Acts, 1870 to 1900, which conferred powers and duties on school boards, must be read by the light of Schedule III. (1) of this Act which provides that references to school boards shall be construed as references to local education authorities, except as respects transactions before the appointed day.

The most important powers and duties which devolved upon a school board in addition to those already mentioned were the powers and duties within their district of enforcing the provisions of the Acts relating to compulsory school attendance, and of making and enforcing byelaws for compelling the attendance of children at school.

The local education authority will exercise these powers and duties in all parts of their area, and it is expressly provided by Schedule II. (8) that the powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under the provisions of this Act to exercise powers and duties, shall be deemed to be powers and duties transferred under this Act;

and that §§85 (1), (2), (3) and 86 to 88 of the Local Government Act, 1894 (*see* p. 167), shall apply with respect to any such transfer. Notes to
Section 5.

The byelaws made by different school boards and school attendance committees in the same county, though framed on the same model, may differ in many material respects (*see* §74 of the Elementary Education Act, 1870, p. 246, and the Appendix to the Elementary Education Act, 1900, p. 331). These byelaws will continue in force in the districts for which they have been made as if made by the county council until revoked or altered by the council (*see* §87 of the Local Government Act, 1894, in the note to Schedule II. (8) p. 167), and it is provided by Schedule III. (4), with regard to the making of new byelaws, that, when the local education authority is a county council, the authority shall be at liberty to make different byelaws in different parts of their area.

As regards the provision of the necessary funds, the local education authorities being public bodies already possessing power to make and levy rates, a separate rating authority is no longer required. Accordingly the power which a school board had to require the rating authority to raise and pay any sum required to meet any deficiency in the school fund, and other powers by means of which the expenses of school attendance committees in non-school-board areas were provided, are replaced by the express provisions of §18 and §19. As regards the other powers of a school board the local education authority will find the means ready to their hand of fulfilling their duties and exercising their powers in those portions of their area which were previously districts of school boards by virtue of Schedule II. (1) of this Act, which provides that the property, powers, rights, and liabilities of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board. Powers.

In addition to the definition of powers and duties already given §24 (3) provides that the expressions 'property,' and 'liabilities' shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888, and accordingly :

The expression 'property' includes all property, real and personal, and all estates, interests, easements, and rights, whether equitable or legal, in, to, and out of property real and personal, including things in action, and registers, books, and documents ; and when used in relation to any quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority, includes any property which on the appointed day belongs to, or is vested in, or held in trust for, or would but for this Act have, on or after that day, belonged to, or been vested in, or held in trust for, such quarter sessions, clerk of the peace, justices, board, sanitary authority, or other authority : 'Property.'

The expression 'liabilities' includes liability to any proceeding for enforcing any duty or for punishing the breach of any duty, and includes all debts and liabilities to which any authority are or would but for this Act be liable or subject to, whether accrued due at the date of the transfer or subsequently accruing, and includes any obligation to carry or apply any money to any sinking fund or to any particular purpose : 'Liabilities.'

**Notes to
Section 5.**

The expression 'powers, duties, and liabilities,' includes all powers, duties, and liabilities conferred on or imposed by or arising under any local and personal act :

**Power to
manage
school.**

By §14 of the Elementary Education Act, 1870, one of the powers of a school board is the 'management' of schools provided by them. This power is transferred in respect of schools so provided by the preceding words of this section, subject to such power being exercised through a body of managers appointed pursuant to §6 (1). In respect of schools not so provided, §7 (1) (p. 48) provides that the local education authority shall 'maintain and keep efficient' all public elementary schools within their area which are necessary, and have the control 'of all expenditure required for that purpose,' other than expenditure for which provision is to be made by the managers; but the power of actually managing the school is vested, by §7 (7) of the Act, in the body constituted under §6 (2), who are by §11 (6) to be the managers of the school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act.

**Responsibility and
control.**

⁸ Prior to the passing of the Act, managers of schools not provided by school boards were responsible for and had the control of all secular instruction in those schools, their responsibility was insisted upon by the Board of Education, and was enforced, if necessary, by a reduction of the grant, but, subject to this supervision, the control exercised by the managers was unqualified, excepting by the terms of their trusts and a compliance with the conditions of the Parliamentary grant. The actual control in a public elementary school is almost throughout the time during which it is being used as a school in the hands of the head-teacher; but the head-teachers exercised this control only as agents and servants of the managers; the acting managers being usually resident near the school exercised close personal supervision over the teachers and the school in general, and they usually either owned the buildings or were in such a position in relation to the trustees, who actually owned them, that their control of the buildings was also unqualified. In so far as the maintenance of the school was provided by subscriptions, the managers usually represented the subscribers, and had absolute control of those subscriptions within the limits of the purposes for which they were subscribed. Where endowments were applicable to the purpose of maintaining the school, the managers were also usually trusted with the duty of spending these endowments, and of exercising their discretion as to such expenditure, within the terms of the trust. The new Act produces considerable changes in these respects: the managers will no longer be directly affected by the reduction of the Parliamentary grants; the head-teachers are no longer, in the same unqualified sense, their agents or servants; their occupation or ownership of the buildings will be qualified by the rights that are given to the local education authority. On the other hand, under §7 (1) (a) the local education authority will not be in a position to replace the managers as regards the responsibility and control; their responsibility is limited to secular instruction, and is, therefore, divided with the managers who retain control of the religious instruction, though not directly

of the expenditure in respect of it; their responsibility in the appointment of teachers is limited to the power given to them to refuse their consent on educational grounds; their responsibility for the dismissal of teachers is confined to that given to them to refuse their consent, or to direct a dismissal on secular grounds, and does not exist in cases where the grounds for dismissal are connected with the giving of religious instruction in the school. Their control of the teachers will further, in practice, be limited by the fact that, in the ordinary course, all communications between them and the teachers will not be made direct, but will pass through the managers, and, although the absolute nature of their ultimate control is preserved by the enactment in §7 (1) (a) (namely that the managers shall carry out any directions of the local education authority as to secular instruction to be given in the school, and that if the managers fail to carry out any such direction, the local education authority shall have themselves the power to carry it out, as if they were the managers), this provision is not adapted for use save on exceptional occasions, and does not give them a control of the same character as that formerly exercised by the managers. The right of occupation of the buildings which is given to them is again very different in nature from the rights of ownership and of occupation which formerly were enjoyed by the managers: it is limited to those portions of the week when the school is in use as a public elementary school, or, in cases where they have no suitable accommodation in the schools provided by them, to the use of the school house out of school hours for an educational purpose on not more than three days in the week. The managers will retain all their rights of occupation and control at other times, and will also be entitled to entry into the school at all times when it is being used as a public elementary school. Bearing these various points in mind, the words 'responsible for and have the 'control of all secular instruction,' must be read in connection with the provisions contained elsewhere in the Act, not as meaning 'shall 'be solely responsible for and have the sole control of all secular 'instruction,' but as meaning shall have such control and such responsibility as,—taking into consideration the whole scheme of the Act in relation to the giving of secular instruction, under the direction of the local education authority, by teachers appointed by and liable to dismissal by the managers as the Act provides, and in school buildings used for the purpose of such instruction in accordance with the conditions imposed,—will enable the local education authority to perform their duty under the Act.

The successful working of this part of the Act will largely depend on the two bodies which thus share the control of the school using their powers for the purpose of furthering the common object of carrying on and improving the education given in the school, and recognising that, if that common object is pursued by both, it is not very material where the dividing line between their respective jurisdictions is drawn.

⁴ It has been decided by the Board of Education that these schools should continue to be called 'voluntary schools,' and that schools provided by the local education authority should be called 'council schools' (see note 4 to §7 (1), p. 51).

Section 6.
Management of schools.

6.—(1) All public elementary schools provided by the local education authority shall, where the local education authority are the council of a county, have a body of managers¹ consisting of a number of managers not exceeding four appointed by that council, together with a number not exceeding two appointed by the minor local authority.

Where the local education authority are the council of a borough or urban district they may, if they think fit, appoint for any school provided by them a body of managers consisting of such number of managers as they may determine.²

(2) All public elementary schools not provided by the local education authority shall, in place of the existing managers, have a body of managers consisting of a number of foundation managers not exceeding four appointed as provided by this Act, together with a number of managers not exceeding two appointed—

(a) where the local education authority are the council of a county, one by that council and one by the minor local authority; and

(b) where the local education authority are the council of a borough or urban district, both by that authority.³

(3) Notwithstanding anything in this section—

(a) Schools may be grouped under one body of managers in manner provided by this Act;⁴ and

(b) Where the local education authority consider that the circumstances of any school require a larger body of managers than that provided under this section, that authority may increase the total number of managers, so, however, that the number of each class of managers is proportionately increased.⁵

**Appoint-
ment of
Managers.**

¹ The term 'managers' is defined in §3 of the Elementary Education Act, 1870, to include all persons who have the management of any elementary school, whether the legal interest in the school house is or is

not vested in them. In voluntary schools prior to 1902, the managers were usually either persons serving *ex officio* under, or appointed in accordance with the terms of, a trust deed, or persons who provided the school, or persons elected by the subscribers to the school funds, and there was no limit to the number of which the body of managers might consist, except in cases where a limit was imposed by the trust deed. As a rule no official return was made to the Board of Education giving the names of the managers, excepting on the first occasion of forming a new public elementary school, and the only official cognisance which the Board subsequently had of the names of the individual managers arose from the fact that at least three of the managers were required to sign the form of annual return. The Board of Education held that it did not rest with them to decide whether the persons who were acting as managers of a voluntary school *de facto*, were also managers *de jure*, and declined to do so, holding back the grants in case of dispute until the question was settled. In the case of board schools the Code provided that school boards were the managers of all schools provided by them but might delegate the management of any such school to other persons in manner provided by the Elementary Education Act, 1870, §15. There were thus two descriptions of managers, viz. (1) managers of schools provided by a school board who were mere delegates with no inherent powers; and (2) managers of schools not provided by school boards, who had complete control within the terms of their trust and subject to the supervision of the Board of Education.

Notes to
Section 6.

The Education Act, 1902, provides for the establishment of definite bodies of managers, and in place of these two descriptions, recognises five descriptions of managers:—

- (1) Managers appointed to represent different authorities on one body of managers of a provided school (§6 (1) first paragraph).

To this class belong the managers appointed, for schools provided by a county council, by the county council, or by the minor local authority.

- (2) Managers whose position approximates to that of the former managers of provided schools, and who are little more than delegates (§6 (1) second paragraph).

To this class belong the managers appointed by the council of a borough or urban district.

- (3) Foundation managers (§§6 (2) and 11).
- (4) Managers appointed by the local education authority on the body of managers of a school not provided by them (§6 (2) (a) and (b)).
- (5) Managers appointed by a minor local authority on the body of managers of a school maintained but not provided by a county council (§6 (2) (a)).

² The first subsection draws a distinction, as regards the appointment of 'managers' for schools provided by the local education authority, between the procedure to be followed by the councils of (a) counties, and (b) boroughs, whether county or non-county boroughs, and urban districts. In the former case, the Act provides that the school 'shall have a body of managers,' and it is obligatory

(1) In
council
schools.

**Notes to
Section 6.**

on the council of the county to appoint four managers, to whom two are to be added on the appointment of the minor local authority; and although by Schedule I. (B) (4) (p. 160) full discretion is left to the county council to determine the matters with which the managers are to be competent to deal, and the conditions and restrictions to which they are to be subject, it will not be open to the council to withdraw all their powers from the body of managers or substitute another body of managers in its place. In the latter cases, where the distances from the centre to the outskirts of the area are comparatively small, it is left to the discretion of the local education authority, not only to determine the matters with which the managers are to be competent to deal, but also to decide whether there shall be any body of managers at all.

**Minor local
authority.**

The minor local authority is by §24 (2) defined to mean a council of any borough or urban district, or the parish council, or (where there is no parish council) the parish meeting, of any parish which appears to the county council to be served by the school, and the provision which is thus made for the representation of the area served by the school is saved from the possibility of being rendered ineffective by the above-mentioned provisions, which prevent the existence of the body of managers depending merely on the discretion of the county council. No power is given to the local education authority by the Act to remove the managers whom it has appointed, such as is given in the case of schools not provided by the authority. It is however open both to the county council and to the minor local authority to make the terms of the appointment such as they think fit, and it will probably tend to prevent difficult questions arising if they make the appointment for a limited time only.

**Removal of
managers.****Appoint-
ment of
managers
in voluntary
schools.**

^s The foundation managers who will correspond most closely to the managers of voluntary schools before this Act was passed will either be appointed under the provisions of the trust deed of the school where those provisions are consistent with the provisions of the Act and sufficient and applicable for the purpose, or, where there is no such trust deed available, they will be appointed in accordance with the terms of an order to be made by the Board of Education, pursuant to an application made to them, for the purpose of meeting the case (*see* §11, *infra*, and the notes thereon). The managers representing local authorities will be appointed, where the local education authority are the county council, one by that council, and one by the minor local authority, and where the local education authority are the council of a borough or urban district both by that authority.

It is expressly provided by Schedule I. B. (5) that a manager of a school not provided by the local education authority appointed by that authority or by the minor local authority shall be removable by the authority by whom he is appointed: this removal will presumably require to be passed by a formal resolution at a duly convened meeting of the authority, but does not appear to require any notice to be given to the manager that such a resolution is to be brought forward.

The body of managers when constituted are by §11 (6) to be managers of the school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the

purpose of the trust deed, and by §7 (7) they are to have all powers of management required for the purpose of carrying out the Act, but the foundation managers and the representative managers will be in a position to render valuable assistance in the management from different points of view. The foundation managers will be enabled to assist by their experience in the past and to ensure continuity where change is not needed; they will be able to represent the interests of the endowment and to see that the terms of the trust are complied with: the representative managers, or, where the local education authority is a county council, the manager appointed by that council, will be able to act as a means of communication between the education committee and the managers, to convey directions to and requests from the managers, and to dissipate any difficulties which may arise from inadequate information: and the representative managers, or where the local education authority is a county council the manager appointed by the minor local authority, will be able to represent to the body of managers the wishes of the parents and the needs of the district served by the school.

Notes to
Section 6.

Schedule I. B. provides (Clause 6) that the body of managers shall hold a meeting at least once in every three months and lays down rules for their proceedings. See p. 161, and the notes to Schedule I. B.

Other provisions as to
managers.

As to the duties of foundation managers (a) in connection with providing the school house, see §7 (1) (d) (p. 49) and the notes thereto (p. 56) (b), in connection with endowments see §13 (1) and notes thereto (p. 95).

As to the relative duties and powers of the body of managers and of the local education authority, see §5 (p. 39) and the notes thereto (p. 42), and see §7 (p. 48) and the notes thereto (p. 49), and as to the duty of the body of managers in relation to the religious instruction to be given in the school, see §7 (6) and the notes thereto (p. 66).

⁴ The grouping of schools is provided for by §12 (p. 92), which enacts that the local education authority may group any public elementary schools provided by them and with the consent of the managers may group any schools not so provided, and provides for the determination of the number and mode of appointment of the managers of schools so grouped.

⁵ Where an increase in the number of a body of six managers is ordered by a local education authority, and the authority which orders the increase is a county council, the increase must be to at least double the original number, but where the authority is the council of a borough or urban district the increase may be from six to nine without altering the proportions.

Where such an increase as is provided for by this subsection takes place it will be necessary for the managers to apply under §11 to the Board of Education for an order to meet the case, unless such an order has already been made or the provisions of the trust deed, or the order (if any) already made under that section, will enable a corresponding increase of the number of foundation managers. See paragraph 17 (a) *ad fin.* of the Memorandum issued by the Board of Education, appended to §11, p. 84.

Section 7.
Mainten-
ance of
schools.

7.—(1) The local education authority shall maintain and keep efficient¹ all public elementary schools within their area which are necessary,² and have the control³ of all expenditure required for that purpose, other than expenditure for which, under this Act, provision is to be made by the managers;⁴ but, in the case of a school not provided by them, only so long as the following conditions and provisions are complied with:⁵—

- (a) The managers of the school shall carry out any directions⁶ of the local education authority as to the secular instruction to be given in the school, including any directions with respect to the number and educational qualifications of the teachers to be employed for such instruction, and for the dismissal of any teacher on educational grounds, and if the managers fail to carry out any such direction the local education authority shall, in addition to their other powers, have the power themselves to carry out the direction in question as if they were the managers; but no direction given under this provision shall be such as to interfere with reasonable facilities⁷ for religious instruction during school hours;
- (b) The local education authority shall have power to inspect the school;⁸
- (c) The consent of the local education authority shall be required to the appointment of teachers,⁹ but that consent shall not be withheld except on educational grounds; and the consent of the authority shall also be required to the dismissal of a teacher unless the dismissal be on grounds connected with the giving of religious instruction in the school;

- (d) The managers of the school¹⁰ shall provide the school house¹¹ free of any charge,¹² except for the teacher's dwelling-house¹³ (if any), to the local education authority for use as a public elementary school, and shall, out of funds provided by them,¹⁴ keep the school house in good repair,¹⁵ and make such alterations and improvements¹⁶ in the buildings as may be reasonably required by the local education authority; Provided that such damage as the local authority consider to be due to fair wear and tear¹⁷ in the use of any room in the school house for the purpose of a public elementary school shall be made good by the local education authority.
- (e) The managers of the school shall, if the local education authority have no suitable accommodation in schools provided by them, allow that authority to use any room in the school house out of school hours free of charge for any educational purpose, but this obligation shall not extend to more than three days in the week.¹⁸

For §7 (2) (use of school out of school hours) and notes thereon, *see* p. 63.

For §7 (3) (appeal to Board of Education) and notes thereon, *see* p. 64.

For §7 (4) (compliance with section to be condition of grant) and note thereon, *see* p. 65.

For §7 (5) (appointment of assistant teachers without reference to creed) and notes thereon, *see* p. 65.

For §7 (6) (religious instruction) and notes thereon, *see* p. 66.

For §7 (7) (management including appointment and dismissal of teachers) and notes thereon, *see* p. 69.

¹ Except as regards the provision made by this section respecting (1) religious instruction; (2) the appointment of teachers; (3) the obligation of the managers to provide, maintain, and improve the school house—exceptions of considerable importance—the system established by the section appears to be similar to that which has been in existence for several years under Clause VII. of the Science

Maintenance
by local
education
authority.

Notes to
Section
7 (1).
—

and Art Directory (now Clause VII. of the Board of Education's Regulations for Evening Schools and Secondary Day Schools, pp. 637 and 650). Under this system, in 'Clause VII. areas,' local committees have carried on the work of science and art schools and classes, of secondary schools earning the science grants, and, latterly, of evening schools, and have performed all the usual functions of local managers; but the body possessing effective financial control, and receiving the Board of Education grants, has been the county authority (that is to say, the county or county borough council, or a committee thereof), which has been recognised under the clause by the Board as responsible throughout their area for the instruction in those subjects for which the Board's grants were payable.

The words 'maintain and keep efficient' are the words used in the unrepealed portion of §18 of the Elementary Education Act, 1870, in describing the duty of a school board in respect of a school provided by such board, and in respect of schools provided by the local education authority, they therefore only reiterate the duty already imposed by §5. In respect of schools not provided by the local education authority, §5 only provided that that authority should be responsible for and have the control of all secular instruction in such schools; and it is this section which imposes the duty of providing for their maintenance and efficiency, in the same words as are used in relation to schools provided by the authority itself.

The latter portion of §18 of the Elementary Education Act, 1870, which provided that, in case a school board failed in performing this duty, it should be deemed to be in default, is repealed by this Act, and the remedy provided in case of default is replaced by the following sanctions in case of failure to perform the duty imposed by this section:—(1) If a question arises between the managers of a school not provided by the local education authority and that authority as to whether the school is being properly maintained and kept efficient, the Board of Education will have power by §7 (3) to determine that question; (2) if the Board of Education consider that the local education authority are not maintaining and keeping the school efficient, they may either give warning in accordance with Art. 86 of the Code, that the payment of the Parliamentary grant may be withheld in accordance with §7 (4), and this warning will be communicated to the local education authority; or they may under §16, after holding a public inquiry, make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and obtain a mandamus to enforce such order.

'Necessary
'schools.'
Control of
expenditure
by local
education
authority.

* As to the effect of these words, *see* note to §9, *infra* (p. 73).

* §18 (5) provides that when any receipts or payments are entrusted by the local education authority to any education committee established under this Act, or to the managers, the accounts of those receipts and payments shall be accounts of the local education authority, but the auditor shall have the same power with respect to managers as he would have if they were officers of the authority.

The control of the local education authority will extend to all salaries of teachers and other officers, and purchases of material, so far as is consistent with their paramount duty to keep the school

efficient, but it will be conditioned by clauses (16) and (17) of Schedule II., which provides that the officers of any authority whose property, rights, and liabilities are transferred to any council shall become the officers of that council and receive not less salary or remuneration while performing the same duties, and that if the duties are altered or the office is abolished as unnecessary, the officer shall receive compensation. Presumably also, the Act having in effect made the local education authority the employer of the teachers *quâ* payment of the salary in the place of the existing managers of voluntary schools, it will not be open to the authority to diminish the salary of any teacher in employment on the staff on the appointed day except by agreement or by giving the teacher proper notice to terminate his engagement.

Notes to
Section
7 (1).

⁴ The expenditure which under this Act is to be provided by the managers is (*see* §7 (1) (d)) the expenditure, if any, required to provide the school house free of charge, and the expenditure required to keep the school house in good repair, fair wear and tear excepted, and to make such alterations and improvements as may be reasonably required, and (*see* §7 (2)) to make good any damage caused (fair wear and tear excepted) to the furniture of the school by the use by them of it out of school hours. All the other expenditure required to maintain and keep the school efficient, which is to be controlled and provided by the local education authority, will include salaries of teachers, supply of material, administrative expenses, caretakers' salaries, and other cleaning expenses, fuel, water rates, gas, electric light, or other lights, insurance of furniture, examination fees, and the making good of fair wear and tear in the use of any room in the school house for a public elementary school.

Expenditure
controlled
by managers.

The Elementary Education Act, 1870, except by the heading to a single section (§76), did not recognise either of the terms 'board schools' and 'voluntary schools.' That Act distinguished the two classes of schools commonly known by these names as 'public elementary schools provided by a school board' and 'public elementary schools not provided by a school board.' Inasmuch as every school must be provided by some person or authority, the shortening of these designations by vulgar usage into 'provided schools' and 'non-provided schools' is a loose use of language, and, in certain collocations of words, is apt to cause confusion. Now that for 'school board' the term 'local education authority' has to be substituted, the correct designations become even longer than they were before, and it may therefore be expected that they will be replaced in ordinary parlance by the conveniently short and sufficiently accurate designations which the Board of Education have decided to adopt, namely 'council schools' and 'voluntary schools.'

Schools not
provided
by local
education
authority.

⁵ The words being 'only so long as the following conditions and provisions are complied with,' the penalty for not complying with the conditions will be that the local education authority will not be bound to maintain and keep efficient the school so long as the condition is not complied with, and will be entitled to cease permanently to maintain the school when the act of non-compliance is of a permanent nature. On the other hand, as the Act speaks at each moment

Non-com-
pliance with
conditions.

Notes to
Section
7 (1).

of time, the local education authority will not be justified in refusing to maintain and keep efficient a necessary public elementary school on the ground of a past act of non-compliance of a merely temporary nature, such as not allowing the use of a room for one lecture, but in case of repeated acts of non-compliance even of a temporary nature the local education authority might feel justified in refusing to maintain the school, and on appeal to the Board of Education might justify their refusal on the ground that there was a permanent breach of the condition, analogous to an absolute refusal by one party to perform a contract, which may be treated by the other party as a rescission of the contract. In such cases the failure to comply might, by endangering the continuance of the school, constitute a breach of trust, and might therefore justify the Board of Education in putting in force their powers under the Charitable Trusts Acts.

Power to
give direc-
tions.
As to fees.

⁶ It was stated on behalf of the Government in the House of Commons, on the 8th December 1902, that this power to give directions included a power to direct that fees should be abolished in the school, and this view seems to be in accordance with §14 and Schedule III. (5) of the Act.

As to
secular
instruction.

The directions given must be as to the secular instruction to be given in the school as a public elementary school, and must therefore be consistent with the conditions imposed by Art. 76 of the Day School Code, and therefore with the conditions set forth in the Code so far as they relate to the particular school. By §3 of the Elementary Education Act, 1870, the term 'elementary school' includes department of a school and by §7 of the same Act every 'elementary school' conducted in accordance with the regulations therein laid down is a public elementary school. It follows therefore that a department of a school which fulfils the required conditions will be entitled to be maintained and kept efficient under this section, and it will not be open to the local education authority to give directions which would change one department of a school into another, or abolish one of the departments, nor to treat any part of a school which has been recognised by the Board of Education as a separate department as if it were not a separate department until the Board of Education shall have determined that it is to be so treated.

Limitations
of power
to give
directions.

The words from 'including any directions' to 'as if they were the 'managers' were added to the Bill in committee, and it was urged in some quarters that there was some risk that a narrower interpretation might be put upon the term 'any directions' if specific illustrations of what was included in the term were added than would be the case if the term were left without a gloss of this nature.

As to staff.

The Day School Code (p. 582) lays down certain requirements (see especially Arts. 73, 82, 85 (a)) with regard to the number and educational qualifications of teachers employed in a public elementary school.

Appoint-
ment.

The Act differentiates the relations between the local education authority and the managers as regards the appointment of particular teachers from those subsisting between the authority and the managers as regards their dismissal. The appointment rests in all

cases, except in the comparatively unimportant cases provided for by subsection (5), *infra*, with the managers, and the necessary consent of the local education authority may not be withheld except upon educational grounds. The dismissal may be effected in any one of three ways: (i.) the managers may themselves dismiss any teacher on grounds connected with the giving of religious instruction in the school, and in this case the consent of the local education authority is not required; (ii.) the managers may dismiss the teacher on other grounds, but in such a case the consent of the authority is required; (iii.) the authority may direct the managers to dismiss the teacher on educational grounds, and if the managers fail to carry out such directions may themselves dismiss the teacher.

Notes to
Section
7 (1).

In all cases, when any question arises as to either the appointment or the dismissal of a teacher, power to appeal to the Board of Education is reserved both to the local education authority and to the managers.

⁷ The conscience clause (Elementary Education Act, 1870, §7) provides that the time or times during which any religious observance is practised, or instruction in religious subjects is given at any meeting of the school, shall be either at the beginning or at the end, or at the beginning and end of such meeting, and, subject thereto, the time which is set apart in the time-table may be any time which allows of instruction in secular subjects being given to each class to at least the amount prescribed by the Code. The most usual course has been to devote from half an hour to an hour in the morning and a short time at the commencement of the afternoon session to religious observances and instruction, but there is no period of the day which has been specifically recognised as 'school hours.' The proviso implies that the managers are entitled to arrange the school hours at such times as to afford reasonable facilities for religious instruction, while complying with any directions of the local education authority so far as is compatible with such facilities. Within the hours so arranged the school is a public elementary school, and accordingly the ordinary engagement of a teacher will include as heretofore the duty to give religious instruction during the times set aside for that purpose, and it will be incumbent on the local education authority to keep the school efficient during the hours fixed for religious, as well as during those fixed for secular, instruction, and to provide such books or other necessary apparatus for the purpose as may be reasonably required by the managers, with whom, subject to subsection (6), *infra*, the control of the religious instruction will rest. Such books or apparatus, however, being the property of the local education authority, it will be competent for that authority to decide for what purpose, if any, they shall allow them to be used at other times than during the school hours of the public elementary school.

Facilities
for religious
instruction.

⁸ The power to inspect relates to the school as a public elementary school, and will therefore apply to any religious instruction given during school hours (*see* preceding note), but this power of inspection will be independent of and in addition to the power which the managers have under §76 of the Education Act, 1870, to set apart

Inspection.

**Notes to
Section
7 (1).**

two days in the year for the holding of an inspection in religious or other subjects. The question whether the school is or is not a public elementary school during any meeting held on the days so set apart depends upon the construction given to that section, and it might be argued that the express provision therein, that a scholar withdrawn by his parent shall not be required to attend the school on any such day, implies that but for such provision he might be required to attend, and that therefore the meeting must be a meeting of a public elementary school.

In answer to an inquiry whether the local education authority can be required to pay the cost of the diocesan inspection in religious knowledge, the Board of Education have stated that they could not be required, but that there appears to be no reason why they should not, if they think it desirable, employ the diocesan or any other inspector to report on the schools and defray the cost of his doing so.

**Consent to
appointment
of
teachers.**

⁹ By this subsection it will rest with the managers to select and engage a teacher subject to the consent of the local education authority being given to the appointment, but the actual engagement and appointment will not be complete until that consent shall have been given. The difficulty of engaging a suitable teacher may be seriously enhanced by delay in making the appointment, and it will therefore be advisable in cases where the local education authority have delegated their power to the education committee either that the education committee or some sub-committee thereof which could act promptly should be permanently authorised to give or refuse the required consent, or that the managers' meeting to select a candidate should be held immediately before a meeting of the education committee. It is usual to select candidates in the first instance by the light of their testimonials and to require a personal interview with those who are selected, paying their fares to the place of meeting before making a final choice. The managers will signify the names and educational qualifications of the candidates chosen to the local education authority. In the event of the consent of the local education authority being doubtful, it may be advisable to avoid delay by submitting an alternative name, but the effect of so doing will be in effect to abandon the right of selection as between the names submitted.

**Form of
consent.**

The local education authority in considering whether it will give its consent will be entitled by Schedule I. (B.) (11) to inspect the minutes of the body of managers. The consent when given should be in such a form as to show that the managers have full authority from the local education authority to appoint the teacher named at the salary determined on from a named date, and to enter into an agreement with the teacher, on terms specified by reference to some recognised form so worded as to show that the local education authority are alone responsible for the payment of the salary. In order that this consent may be a sufficient protection to the managers it should be sealed with the seal of the local education authority. As to the necessity for a contract, which is to bind the local education authority, being sealed, *see* *Start v. West Mersey School Board* (63 J.P. 440) and *Lawford v. Billericay Rural District Council* (19 T.L.R.

322, *post*, p. 159). As to the form which such an agreement may take, see note to Article 71* of the Code, p. 581.

Notes to
Section
7 (1).

Refusal
of consent.

In the event of the local education authority refusing their consent it will be necessary that the ground of their refusal should be specified when the refusal is communicated to the managers sufficiently to show that it is an educational ground. In cases where the managers have selected the best candidate available, and the local education authority on educational grounds refuse their consent, the effect of such refusal will *prima facie* be to throw on the local education authority the duty of raising the salary offered in order to attract a better candidate.

¹⁰ The term 'school house' is defined by §3 of the Elementary Education Act, 1870 (p. 196), to include 'the teacher's dwelling-house and the playground (if any) and the offices and all premises belonging to or required for a school.'

School
house.

In view of the words 'the playground (if any)' it appears that the managers are bound to provide the playground (if any) free of any charge and to keep it in good repair. Their obligation, however, to make reasonable alterations and improvements is confined by the Act to 'the buildings,' and does not therefore appear to extend to the playground. The Board of Education generally require that a school shall have a playground, as a condition of the premises being regarded as satisfying Article 85 (a) of the Code (p. 584), and if there is any playground the managers will have to provide it free of charge, and the local education authority will have no power to pay a rent to them for the use of it; but in those cases in which for special reasons the Board have not required the provision of a playground, the present section, read with §3 of the Elementary Education Act, 1870, does not appear to impose on the managers the duty of providing one.

Where the playground has been conveyed upon trust to be used for the purposes of the public elementary school or formed part of a site approved for the purpose by the Board of Education, it will be included in the 'school house' which the managers must provide: but where a field not so conveyed or approved has been rented by the managers to afford recreation to the scholars attending the school, it will not necessarily be included in the term 'school house,' and if it is not so included there will be no obligation on the managers to continue to provide it.

The words 'premises required for a school' will include the provision of reasonable access. In a case where the managers of a voluntary school had been served by the London United Tramways Company with notice of a Bill authorising a line of electric trams passing the school, the managers opposed the Bill on the ground of the danger which would be caused to the children attending the school, and obtained the insertion of a clause that: 'so long as the property is used as a public elementary school no tramcar passing in front of the said property shall move at a higher speed than four miles an hour at any time within a quarter of an hour before and a quarter of an hour after the times appointed for the admission and departure of the children attending the school,' London United Tramways Act, 1902, §18.

**Notes to
Section
7 (1).**

**Managers
to provide
the school
house.**

¹¹ The effect of the words 'the managers of the school shall provide the school house free of any charge (except for the teacher's 'dwelling-house (if any) to the local education authority) for use as 'a public elementary school,' is to give the local education authority a right of occupation without payment of rent for the purpose specified during ordinary school hours, including the portion of those hours assigned to religious instruction, and during such further portions of the day as are necessary for the purpose of enabling the school to be carried on during those hours, and the provisions of Schedule III. (7) will justify any managers, who might otherwise be prevented by the terms of their trusts, in allowing the local education authority to exercise this right of occupation. The relation which is thus created by this subsection between the managers of the school and the local education authority not provided by them differs in very material respects from the ordinary relation between landlord and tenant, and it is therefore not permissible to apply directly to it the law concerning ordinary tenancies, but some of the terms used in the subsection derive much of the meaning attached to them from this branch of the law, and in considering what is the exact nature of the relation created by the Act comparisons may legitimately be made with analogous cases arising between landlord and tenant if such comparisons result in a reasonable construction being given to the words of the Act.

Managers and trustees of elementary schools which are subject to trusts usually hold the school premises upon trust either to carry on a school therein themselves or to permit it to be carried on, and it is therefore not open to either body, or even to both bodies acting together, to close the school capriciously, and if they are merely unable or unwilling to continue to provide the school it will be their duty to apply to the Board of Education, who have power to relieve them of their trust and to appoint new trustees; but by §13 (1) it is provided that nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof, and the trustees or managers are, since the passing of the Act, in the same position as regards their right to decide for sufficient reasons, not to carry on any school as a public elementary school as they occupied before it; so far, therefore, as their own power is concerned, the managers may determine at any time the occupation of the school for a public elementary school, provided such a course is consistent with their trust, and provided they consider it to be their duty in pursuance of the terms of their trust to do so, and as there is nothing in the Act which expressly requires that such termination should take place in any particular manner it has been suggested that it might be effected at the end of either of the periods for which the school is usually occupied as a public elementary school, viz. at the end of a school session, week, or term. In view of the inconvenience which might thus be caused, a more reasonable construction is arrived at by considering the duty imposed by the law in the case of a tenancy of an ordinary farm, of which the tenant is entitled to cut and carry away the growing crops, provided he has not himself terminated the tenancy, on the principle that 'where the law doth give anything 'to one it giveth impliedly whatsoever is necessary for the taking and

'enjoying of the same' (Co. Litt. 56 a). In case, therefore, the managers decide no longer to allow their school to be maintained as a public elementary school, it will by analogy be just that the local education authority shall have the right to complete the school year, or to continue their occupation for such shorter period as will enable them to earn all grants which are in the course of being earned at the time when the decision is arrived at.

Notes to
Section
7 (1).

The right of the managers so to decide will also be limited in cases where they have agreed, pursuant to §12 (2), to the grouping of their school, by the terms of that section, and will not become effective until the determination of the period of three years named in §12 (4), except with the consent of the local education authority, but this limitation would not prevent an owner of a school, let on the terms of an agreement of tenancy, from terminating that tenancy in accordance with the agreement.

¹² The words 'free of any charge' except for the teacher's dwelling-house prevent the payment by the local education authority of any rent or interest on mortgages or of any charges imposed on the owner as distinguished from the occupier of the premises, but of these, owing to the exemption enjoyed by voluntary schools under §3 of the Voluntary Schools Act, 1897, the only one which is likely to arise is a charge for road apportionment, and in the case of a school conveyed under the School Sites Act it has been decided that this cannot be made an effective charge on the premises (*see* the note to §2 of the School Sites Act, 1841, p. 537). Any premiums for insurance of the school buildings must be paid by the managers, but the expense of insuring the furniture and equipment will be part of the ordinary expense of maintenance to be borne by the local education authority. The owners of public elementary schools are entitled to an allowance of income-tax charged under Schedule A. by virtue of the Income-Tax Act, 1842, Schedule A. VI., which provides that an allowance is to be made for the duties charged on any public school, in respect of the public buildings, offices, and premises, belonging to such public school, and not occupied by any individual officer or the master thereof, whose whole income shall amount to £160, or by any person paying rent for the same. *See* note to §13, *infra*, p. 101.

Free of any
charge.

¹³ This exception applies only to the freedom from any charge and does not allow the managers to refuse to provide the teacher's house if it is required for occupation. The rent to be received for it will accordingly be limited by the consideration that the house must be available if required by the teacher, and the charge will therefore presumably be equal to the difference of the salary which the teacher accepts from that which he would require if there were no teacher's house available. Where the offices and premises belonging to or required for the school include sleeping accommodation for caretakers the managers will be bound by the subsection to provide this accommodation free of charge to the caretaker employed by the local education authority, but where the managers own a separate house which is occupied by a caretaker but does not form part of the offices and

Charge for
the teacher's
dwelling-
house.

Caretakers'
houses.

**Notes to
Section
7 (1).**

premises belonging to or required for the school, they will be entitled to ask for and receive a rent for it or duly to terminate the tenancy and find another tenant.

**Funds pro-
vided by
managers.**

14 The sources of the funds to be provided by managers will be voluntary subscriptions, rent of teacher's house, share of fees (if any) under §14, balance of Parliamentary grants at the appointed day under Schedule II. (12) and endowments.

**Meaning of
'keep in
'good
'repair.'**

15 The obligation imposed on the managers being to provide the school house for use as a public elementary school and to keep the school house in good repair, the words good repair must be read in connection with the preceding words and must mean good repair for the purpose named. Under an agreement to keep a house in 'good 'tenantable repair' it has been held by the Court of Appeal that the obligation is to put and keep the premises in such repair as having regard to the age, character, and locality of the house would make it reasonably fit for the occupation of a tenant of the class who would be likely to take it (*Proudfoot v. Hart*, 25, Q. B. D. 42). If the premises are old the obligation is to keep them in good repair as old premises, and while on the one hand this will not justify keeping the school buildings in bad repair, on the other hand there will be no obligation to do more by way of repair than to put and keep them in good tenantable repair with reference to the purpose for which they are to be used. The construction thus given to the words 'keep in repair' does not limit the right of the local education authority under the following words of the section to call for such alterations and improvements as may be reasonably required, but only limits the duties cast on the managers until such reasonable requirements have been made.

**Alterations
and improve-
ments.**

16 Where the Act refers to the provision of further accommodation (*see* §8 (2)) it uses the word enlargement, and it would seem therefore that the alterations and improvements referred to in this section must be something different from enlargements and must be alterations and improvements of the school as it exists. Accordingly it is not open to the local education authority to throw on the managers of any school not provided by them the duty of making an enlargement which would increase the accommodation of the school except so far as such enlargement is incidentally involved in a reasonable improvement of the existing school house.

**Fair wear
and tear.**

17 The proviso that such damage as the local authority consider to be due to fair wear and tear in the use of any room in the school house for the purpose of a public elementary school shall be met by the local education authority does not give the local education authority the final decision as to the amount which they will pay, it only gives them the power in the first instance to name the sum subject to appeal to the Board of Education under §7 (3), in case the managers should consider that sum inadequate.

The words 'fair wear and tear' in connection with ordinary tenancies usually occur by way of limitation of the liability of either the landlord or the tenant, and are not generally used to indicate

the extent of such liability otherwise than by way of limitation ; thus, in a case where a tenant from year to year or at will holds without any express covenant or agreement to repair he is not liable for permissive waste, and is not liable to make good mere wear and tear of the premises (*Torriano v. Young*, 8. C. & P. 8 ; *Ferguson v. —*, 2 Esp. 590). Notes to Section 7 (1). —

As this rule applies to tenancies at will or from year to year, which are in some respects analogous to tenancy of the local education authority, it might have been inferred, but for the words which we are now considering, that they would not have been liable for fair wear and tear, and conversely as the words in question have the effect of rebutting this inference it may be argued that they have the same meaning in the subsection as that which has been given to them in the cases above cited.

The words are also used as qualifying an ordinary covenant to repair, by the addition of the words 'fair wear and tear excepted,' a qualification not infrequent in the case of agreements for short terms, and sometimes found in leases of longer periods. The meaning of the words in this connection is considered in the case *Davies v. Davies* (38 Chancery Division, at p. 505). In that case, the tenant was not to be liable for any repairs consequent upon or rendered necessary by fair wear and tear, or to damage from tempests. *Kekewich J.* said, if these words were not there any dilapidations found at any time, or at the end of the term by reason of the wear and tear, the wearing out of the walls and floors, for example, from the constant traffic, and so forth, he would be liable to replace and restore the place to good and substantial repair ; from these things he is rendered free by that exception. Conversely therefore, wear and tear may be said to include such dilapidations as are caused, *e.g.* to the walls and floors by traffic and other reasonable user of the premises, and it may, probably, fairly be said that the words throw upon the landlord, or persons who are in the position of the landlord, *quod* wear and tear, and therefore upon the local education authority, the burden of showing that the dilapidations which are to be excepted from fair wear and tear are either the result of damage (whether wilful, negligent, or accidental), or that they have been caused by something other than mere user, *e.g.* by not repairing at an earlier stage. (*Foà on Landlord and Tenant*, 3rd edition, at p. 203.)

These considerations must be qualified in the present instance by the fact that the occupation by the local education authority is only during a portion of each week, and that the fair wear and tear is confined to that arising from the use of any room in the school house for the purpose of a public elementary school. Where the school is not used otherwise than as a public elementary school there seems to be no reason why this should not include the whole of the ordinary internal repairs, including painting, plastering, and repairs of wood-work, flooring, and fixtures, leaving the external repairs whether due to wear and tear or not, to be done by the managers ; where the school is also used as a Sunday-school, presumably a proportionate amount of the expenditure should be provided by the local education authority, which should bear the same ratio to the total expenditure Proportion of fair wear and tear to be charged.

**Notes to
Section
7 (1).**

as the time of user for the purpose of a public elementary school bears to the total time of user for the purposes of public elementary school and Sunday-school. Where the school is further used for any other purpose out of school hours a similar calculation should be made. In such calculation it appears from the express words of subsections (d) and (e) that any user under §7 (1) (e) should not be included as part of the user causing the wear and tear in respect of which the local education authority is liable.

**Provision
of room out
of school
hours.**

¹⁸ No provision is made in the Act as to how these three days are to be selected, but the words do not seem to prevent the managers or the owners of the school from letting or arranging beforehand to use the rooms out of school hours on any days selected by them and allowing the local education authority the right to use the rooms on the other three days in the week provided they make their selection *bonâ fide* and not with a view of avoiding the obligation imposed on them by the section.

The 'managers' upon whom the obligation to 'allow' the use of any room is placed by the clause are the persons who form the body of managers under this Act. It will be for them to make such arrangements with the owners, trustees, or former managers of the school as will enable them to fulfil the obligation. No power is given by the Act to compel the owners or trustees to assent to any such arrangement, but the fulfilment of the obligation will, by virtue of subsection (4), be one of the conditions of the Parliamentary grant, that is to say, one of the conditions of the continued existence of the school as a public elementary school.

In view of the fact that public elementary schools generally meet in the mornings and afternoons of the first five week-days, the use of a room in the school house out of school hours for an educational purpose will, as a rule, be confined to its use for evening or Saturday classes.

In the case of a school within the area of a borough or urban district council which is a local education authority for the purpose of Part III., but not of Part II., of the Act, the authority which has the right to the use of the rooms under this clause appears to be the borough or urban district council, and not the county council (*see* note 1 to §5, p. 39).

**Rights to
use of rooms
in schools.**

In addition to the right given by this subsection various Acts of Parliament contain clauses giving a right to use rooms in public elementary schools for purposes of a public or quasi-public character. The Ballot Act, 1872 (35 & 36 Vict. c. 33, §6), provides that the returning officer at a Parliamentary election may use, free of charge, for the purpose of taking the poll, any room in a school receiving a grant out of moneys provided by Parliament; but he is to make good any expense incurred by the person or body of persons having control over the same on account of its being used for taking the poll as aforesaid, and the Local Government Act, 1888, provides (§75 (10) (g) that nothing in the Municipal Corporations Act as applied by that section shall prevent the use of schools and public rooms for the purpose of taking the poll at elections under that Act, but that §6 of the Ballot

**By returning
officer.**

Act, 1872, should apply, and that the returning officer, in addition to using such rooms free of charge for taking the poll, may use the same for free of charge for hearing objections to nomination papers and for counting votes. The Local Government Act, 1894, §48 (3) (a), extends the application of the same §6 with the addition last mentioned to all elections regulated by rules framed under the Local Government Act, 1894.

Notes to
Section
7 (1).

The Corrupt and Illegal Practices Prevention Act, 1883, §20, provides that

Use of
schoolroom
by candi-
date.

‘The premises of any public elementary school in receipt of an annual Parliamentary grant, or any part of any such premises, shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises or any part thereof for a committee room, he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring.’

But it is provided by §64 that a room or building shall not be deemed to be a committee room for the purposes of the Act by reason only of the candidate or any agent of the candidate addressing therein electors, committee men, or others.

The Allotments Act, 1890, §5, makes the following provisions as to the use of schools for the purposes of that Act :—

Use of
schoolroom
free of
charge.

5. Any room in a school receiving a grant out of moneys provided by Parliament may, except during ordinary school hours, be used free of charge for the purpose of an inquiry under this Act, or for the purposes of this Act by the county council or any committee appointed under this Act, or, with the consent of any two managers, for the purpose of holding public meetings to discuss any question relating to allotments under this Act or the principal Act, but any damage done to the room and any expense incurred by the person or persons having control over the room on account its being so used shall be paid by the county council or by the persons calling the meeting.

Nothing in this section shall give any right to hold a public meeting in a schoolroom (a) unless not less than six days before the meeting a notice of the intention to hold the meeting on the day and at the time specified in the notice, signed by the persons calling the meeting, being not less than six in number, and being persons qualified to make a representation to the local authority under the principal Act, has been given, if the school is under a school board, to the clerk of the board, and in any other case to one of the managers of the school; nor (b) if the use of the schoolroom on the said day and at the said time has previously to the receipt of the notice of the meeting been granted for some other purpose; but in that case the clerk or manager, or some one on his behalf, shall forthwith after the receipt of the notice, inform in writing one of the persons signing it that the use of the school has been so granted for some other purpose, and name some other day on which the schoolroom can be used for the meeting.

If the persons calling the meeting fail to obtain the use of a schoolroom under this section, they may appeal to the standing committee under this Act, and the committee shall forthwith decide the appeal and make such order respecting the use of the room as seems just.

And the Local Government Act, 1894, §4, makes the following provisions as to the use of a schoolroom by the parish meeting or the parish council, or for certain other public purposes :—

4.—(1) In any rural parish in which there is no suitable public room vested in the parish council or in the chairman of a parish meeting and the overseers which can be used free of charge for the purposes in this section mentioned, the parochial electors

**Notes to
Section
7 (1).**

and the parish council shall be entitled to use, free of charge, at all reasonable times, and after reasonable notice, for the purpose of—

- (a) the parish meeting or any meeting of the parish council ; or
- (b) any inquiry for parochial purposes by the local government board or any other government department or local authority ; or
- (c) holding meetings convened by the chairman of the parish meeting or by the parish council, or if as to allotments in the manner prescribed by the Allotments Act, 1890, or otherwise as the Local Government Board may by rule prescribe, to discuss any question relating to allotments, under the Allotments Acts, 1887 and 1890, or under this Act ; or
- (d) the candidature of any person for the district council or the parish council ; or
- (e) any committee or officer appointed, either by the parish meeting or council or by a county or district council, to administer public funds within or for the purposes of the parish

any suitable room in the school house of any public elementary school receiving a grant out of moneys provided by Parliament, and any suitable room the expense of maintaining which is payable out of any local rate :

Provided that this enactment shall not authorise the use of any room used as part of a private dwelling-house, nor authorise any interference with the school hours of an elementary day or evening school, nor, in the case of a room used for the administration of justice or police with the hours during which it is used for these purposes.

(2) If, by reason of the use of the room for any of the said purposes, any expense is incurred by the persons having control over the room, or any damage is done to the room or to the building of which the room is part or its appurtenances, or the furniture of the room or the apparatus for instruction, the expense or damage shall be defrayed as part of the expenses of the parish meeting or parish council or inquiry as the case may be ; but when the meeting is called for the purpose of the candidature of any person, such expense or damage shall be reimbursed to the parish meeting or the parish council by the persons by whom or on whose behalf the meeting is convened.

(3) If any question arises under this section as to what is reasonable or suitable, it may be determined, in the case of a school house, by the Education Department, in the case of a room used for the administration of justice or police, by a Secretary of State, and in any other case by the local government board.

The Education Department in a circular dated the 30th November 1894 stated that in deciding, under subsection (3) of this section, whether the *time* for which the use of a room was required was 'reasonable,' they would be largely influenced by the consideration whether in any particular case efforts had been made to avoid unnecessary delay and friction. They further stated with regard to 'reasonable notice' that they considered that except as regards some meetings of parish councils, the notice should be served in no case less than seven clear days before the date named, and that in most cases longer notice, as a rule not less than fourteen days' notice, should be given ; that three clear days' notice would be ordinarily sufficient for a special parish council meeting, but longer notice should, as a general rule, be given ; and that as regards the four regular statutory meetings of the parish council, including the 'annual meeting,' an endeavour should be made to fix the dates at the beginning of each year, and to give formal notice of them to the school managers, so soon as the dates are fixed, not less than fourteen clear days' notice of each of these regular meetings being given in any case. As to what is a 'suitable room,' the Department pointed out that, in view of the proviso at the end of subsection (1), any question under this head must be confined to demands to use one room or another in the school proper, exclusive of the teacher's residence, and that therefore no serious difficulty was likely to arise on this point.

As regards the use of a room under subsection (1) (d) for the candidature of any person for the district council or parish council,

the Act provides that the room can be used by (a) the parish council, **Section** or (b) the parochial electors. With regard to such use by the ^{7 (2).} parochial electors, the above-mentioned circular stated as follows :—

The Department are advised by the law officers of the Crown that the notice to be given to the persons having control over the room should proceed from the parochial electors and not from the candidate, and that the right to use the room is not a right of the candidate, but a right of the electors or the council. The law officers further consider that the expression 'parochial electors' means, not any section or majority of such electors, but the body as a whole, that is to say, acting as a parish meeting, and that the only way for the parochial electors to demand the use of the room is by notice given pursuant to a resolution at a parish meeting.

(2) The managers of a school maintained but not provided by the local education authority, in respect of the use by them¹ of the school furniture² out of school hours,³ and the local education authority in respect of the use by them of any room in the school house out of school hours, shall be liable to make good any damage caused to the furniture or the room, as the case may be, by reason of that use (other than damage arising from fair wear and tear), and the managers shall take care that, after the use of a room in the school house by them, the room is left in a proper condition for school purposes.⁴

¹ The clause does not limit the use of the furniture by the managers to use upon the school premises. The furniture may ^{Use of school furniture.} apparently be removed temporarily from the premises, provided that it is replaced in good condition, by the time when it is again required for the ordinary purposes of the school.

² It is provided by Schedule II. (14) that the local education authority shall be entitled to use, for the purposes of the school, any furniture or apparatus belonging to the trustees or managers and in use for the purposes of the school before the appointed day. The effect of this subsection will be that the local education authority will only have to provide for necessary additions to such furniture, replacements rendered necessary by fair wear and tear or use during school hours, and insurance. As to the question whether such use is to be paid for by the local education authority, *see* note to Schedule II. (14), p. 172.

³ It follows from these words that the managers are not liable in respect of the use of the school furniture, during that portion of the school hours when religious instruction is being given. *See* note 7 to §7 (1) (a) *supra*, p. 53.

Section
7 (3).

⁴ If the same caretakers are employed by all parties using the rooms, and a fair proportion of their salaries are paid by each of such parties, the difficulties which may arise in carrying out this provision will be minimised.

(3) If any question arises under this section between the local education authority and the managers of a school not provided by the authority, that question shall be determined by the Board of Education.¹

¹ When the Board of Education shall have determined any such question, it will be the duty of the local education authority to comply with such determination, and if they fail to comply the Board of Education may either by §7 (4) refuse to pay to them any Parliamentary grant, or proceed under §16, after holding a public inquiry, to make such order as they think necessary for compelling the local education authority to fulfil their duty. It will also be the duty of the body of managers to comply with such order, whenever the terms of their trust impose on them the duty of carrying on the school, and such duty can only be performed by the assistance of the local education authority provided for in this section. When the managers are not bound by their trusts to carry on the school, they will have the alternative of complying with the Board of Education's decision, or of ceasing to carry on the school as a public elementary school.

There may arise cases in which compliance on the part of the managers is either impossible for them on account of the expense involved, or contrary to what they conceive to be their duty as trustees of the school. If they regard compliance as impossible on the ground of expense, they may either (1) ask the Board of Education to relieve them of their trusteeship, and appoint new trustees, or (2) transfer the school by an arrangement under §23 of the Elementary Education Act, 1870, for a limited or unlimited period (*see the notes to that section (p. 217)*). When the arrangement so made is temporary, it may be found possible to secure compliance with the order at the termination of the arrangement, by accumulating an endowment available for the purpose.

If the managers have any doubt as to what their duty is as trustees of the school, they are entitled to throw the responsibility of deciding such doubt on the Board of Education by applying to that Board for their opinion, advice, or direction, pursuant to §16 of the Charitable Trusts Act, 1853 (p. 460), and if the Board, acting for this purpose as commissioners under that Act, advise compliance with any order made, each manager acting in accordance with such advice will by virtue of that section be deemed, so far as respects his own responsibility, to have acted in accordance with his trust.

If the managers should refuse to comply with an order so made, not because compliance with it was impossible, nor because they thought it contrary to their duty, but for some capricious reason, then

the Board of Education might, in cases which come within the powers given to them by the Charitable Trusts Acts and the Board of Education Act, 1899, and the orders in council made thereunder, utilise those powers for the purpose of compelling managers to comply if non-compliance with the order would involve a breach of trust, or might certify to the Attorney-General that they consider it desirable that proceedings should be instituted by him.

(4) One of the conditions required to be fulfilled by an elementary school in order to obtain a Parliamentary grant shall be that it is maintained under and complies with the provisions of this section.¹

¹ It is provided by §7 of the Education Act, 1870, that a public elementary school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual Parliamentary grant, and accordingly a school which is not maintained under, or does not comply with the provisions of this section will not be a public elementary school, and there will be no obligation on the local education authority to maintain or keep it efficient.

Compliance with section 7 (4) is condition of grant.

(5) In public elementary schools maintained but not provided by the local education authority, assistant teachers and pupil teachers may be appointed, if it is thought fit, without reference to religious creed and denomination,¹ and, in any case in which there are more candidates for the post of pupil teacher than there are places to be filled,² the appointment shall be made by the local education authority, and they shall determine the respective qualifications of the candidates by examination or otherwise.

¹ The effect of these words is to render it possible for managers of voluntary schools, notwithstanding the terms of their trust, to appoint assistant teachers and pupil teachers who do not belong to the denomination to which the school is attached. It does not in any way preclude the managers from appointing only assistant teachers and pupil teachers belonging to such denomination, nor does it interfere in any way with their duty to see that instruction is given in the school in accordance with the trusts governing it, and that there is a sufficient staff of teachers qualified to give instruction in accordance with those trusts. Nor would it preclude the local education authority considering whether the assistant teachers appointed had sufficient educational qualifications for giving either secular or religious instruction.

Appointment of assistant teachers without reference to creed.

Section
7 (6).Appoint-
ment of
pupil-
teachers.

² It will be possible for the local education authority to give a direction under §7 (1) (a) which the managers must carry out, that there shall be a specified number of pupil teachers entering on their indentures in a particular department of a school, and, if there are more candidates than the number so fixed, to hold an examination for the selection of children to fill those posts. As the candidates are to be 'candidates for the post' it will be necessary that their applications should be in reference to the particular places to be filled, and this will be attained by the issue of a notice stating the places to be filled, and requiring applications to be made at a specified place by a named date. If the number of applicants exceeds the number of places the appointment passes absolutely to the local education authority, if not, the appointment rests as before with the managers. Until such a definite direction shall have been given by the local education authority the only way in which it would appear probable that an examination may be necessary would be if the managers had employed several children as candidates and presented them to the inspector for approval under Art. 35 of the Code (p. 575), and the local education authority is not prepared to find places for the whole of them.

Considerable power is given to the local education authority by the last part of this subsection which might in some cases result in hardship to monitors, candidates, and probationers who are already working in the school with a view to being indentured, by compelling them to enter into competition with children who are not so working. In such cases the proper remedy appears to be an appeal to the Board of Education under §7 (3) in respect of any direction which would lead to that result.

(6) Religious instruction given in a public elementary school not provided by the local education authority¹ shall, as regards its character,² be in accordance with the provisions (if any) of the trust deed relating thereto, and shall be under the control of the managers: Provided that nothing in this subsection shall affect any provision in a trust deed for reference³ to the bishop or superior ecclesiastical or other denominational authority so far as such provision gives to the bishop or authority the power of deciding whether the character of the religious instruction is or is not in accordance with the provisions of the trust deed.⁴

Religious
instruction.

¹ The clause corresponding to this (§7 (5) in the Bill) as it left the House of Commons was in the following form:—

(5) Religious instruction shall be given in a public elementary

school not provided by the local education authority, in accordance with the tenour of the provisions (if any) of the trust deed relating thereto, and shall be under the control of the managers. Notes to Section 7 (6). —

As this clause was introduced in committee by an amendment moved by Colonel Kenyon-Slaney it was commonly known as the 'Kenyon-Slaney Clause,' and the name is also frequently applied to §7 (6) of the Act which was substituted for it. Much controversy arose and considerable differences of opinion were expressed as to the meaning of the clause as it originally stood, the principal point of divergence being the question whether the control given to the managers as a body overrode any rights given to the incumbent by the trusts regulating the school to supervise and give the religious instruction himself. If regard is had to the provisions in Schedule III. (7) it will be found that the meaning of the clause as it originally stood does not materially differ from that of §7 (6) which has replaced it. By §11 (6) of the Act it is provided that the body of managers appointed under this Act shall be the managers of the school for the purposes of the trust deed, so far as respects the management of the school as a public elementary school, and this (*see* note to §7 (1) (*a*) *supra*) includes the religious instruction. The body of managers is therefore bound to see that the religious instruction given shall as regards its character be in accordance with the provisions (if any) of the trust deed relating thereto. The duty of the body of managers having been so conditioned, the subsection provides that, subject to this condition, the religious instruction is to be under their control, and by Schedule III. (7) the body of managers will have power to exercise such control 'notwithstanding any provision 'contained in any instrument regulating the trusts or management 'of their school.' Accordingly, under the subsection any provision which defines the religious instruction to be given (whether by indicating the course of instruction, or the religious qualification of the person who is to give it, or the manner of determining what is or is not to be given) is binding on the body of managers, but any provision which would interfere with the control of the body of managers over the religious instruction so defined is rendered nugatory by the provisions of Schedule III. (7) which entitle the managers to exercise such control notwithstanding it. Religious instruction in voluntary schools. —

² It will be noticed that the words 'shall as regards its character 'be in accordance with the provisions (if any)' have replaced the words 'shall be given in accordance with the tenour of the provisions 'if any.' Very divergent meanings were attributed in debate to the words 'in accordance with the tenour,' and in many quarters it was assumed that they would result in ousting the ordinary rule of construction, that in construing a deed it is necessary to look at the deed as a whole, in favour of some less definite method of interpretation. The words which have now been substituted prevent this misconception, and allow the control of the body of managers to override the letter of the provisions (if any) defining the religious instruction to such an extent, and only to such an extent, as is consistent with the preservation of the character of the religious instruction. Character of the religious instruction.

Notes to
Section
7 (6).

Religious
qualification
of teacher.

In cases where the provisions of the trust deed are confined to describing the tenets which are to be taught, little difficulty will be found in practice in drawing this dividing line, but in cases where the character of the religious instruction to be given is in part provided for by an indication of the religious qualification of the person who is to give it, greater difficulties arise. It may be found to appear from the trust deed itself, that the direction that religious instruction shall be given by a person having a certain qualification of a religious nature, *e.g.* by a priest in a Roman Catholic School or by the incumbent of the parish in a Church of England School, is so expressed that it must be read as part of the definition of the character of the teaching which is to be given, or it may be that the indication will be negative, *e.g.* the provision in the model form for Wesleyan Schools, that no person shall teach who shall maintain any doctrine contrary to the Notes on the New Testament and the first four volumes of sermons of John Wesley.* In such cases the control of the body of managers will be conditioned by their duty to preserve the character of the instruction as so defined, and the dividing line will be drawn by the individual, who is given rights of entry or other rights for the purpose of giving such instruction, utilising those rights, not for the purpose of controlling the instruction given, but for the purpose of giving such instruction or guidance as his religious qualification enables him to give.

Appeal as to
religious
instruction.

³ The form in which the terms of union with the National Society provide for an appeal to the bishop are as follows:—

In case any difference shall arise between the parochial clergy and the managers of the schools with reference to the preceding rules† respecting the religious instruction of scholars, or any regulation connected therewith, an appeal is to be made to the bishop of the diocese, whose decision is to be final.

The effect of Schedule III. (7) is to enable the body of managers to disregard this clause in so far as it interferes with their control over the religious instruction, although they are still bound by it in so far as it assists in defining what the religious instruction is to be, and the proviso in the subsection which was introduced by the Lord Chancellor in the House of Lords gets rid, as it was intended to do, of all doubt on the point by expressly preserving, *ex abundanti cautela*, the power given to the bishop or other authority of deciding whether the character of the religious instruction given is or is not in accordance with the provisions of the trust deed.

Form of
award.

⁴ The appeal to the bishop is not to him as a judge ecclesiastical, but to him as an arbitrator appointed by the terms of the trust deed. Any award made by him should therefore show on its face the jurisdiction to make it by reciting the provision giving him the power of deciding whether the character of the religious instruction

* Precedents of Trust Deeds, Parliamentary Papers, 1902, Cd. 1837, p. 28.

† The first and second of these rules are as follows:—1. 'The Children are to be instructed in the Holy Scriptures and in the Liturgy and Catechism of the Established Church.' 2. 'With respect to such instruction the Schools are to be subject to the superintendence of 'the Parochial Clergyman.'

is or is not in accordance with the provisions of the trust deed, and that a difference has arisen respecting the character of religious instruction of scholars in the school, and the decision should decide that difference and no other. Section 7 (7).
—

(7) The managers of a school maintained but not provided by the local education authority shall have all powers of management required for the purpose of carrying out this Act, and shall (subject to the powers of the local education authority under this section) have the exclusive power of appointing and dismissing teachers.¹

¹ It may be noted, with regard to the apportionment of powers and duties between the local education authority and the managers which is contemplated throughout this section, that an apportionment of functions—not, it is true, on identical lines—has been tried in the constitution by schemes under the Welsh Intermediate Education Act, 1889 (pp. 447 to 455), of county governing bodies, and district governing bodies. Writing on the subject in the paper which they contributed to Volume II. of the Special Reports on Educational Subjects issued by the Education Department in 1898, the Charity Commissioners observe :—

Powers of management.

The multiplicity of governing bodies, with its system of dual control, was not adopted without misgivings. By some it was thought that in most of the counties the county body would have sufficed for the management of the schools; and indeed in the smallest county, Radnorshire, that plan has been adopted, though even there district governors have been created for other purposes. Others feared that the functions reserved for the district governors would be too insignificant to make service on those bodies attractive to the best people. In Glamorgan, where the districts have in several cases a population larger than that of some Welsh counties, it was felt that the reason for limiting the powers of the district governors had not the same force as elsewhere, and the appointment and dismissal of head master and head mistress accordingly rests with them. But on the whole the democratic instinct, the desire to enlist for the work the largest possible number of workers which is characteristic of the people, prevailed over these objections, and it must be admitted that the system adopted has so far produced less friction than might have been anticipated.

The appointment and dismissal of head masters and head mistresses are in three counties absolutely in the hands of the district governing body, and in two others of the county governing body. In the remaining eight counties the county governors exercise those functions either in co-operation with a limited number of the governors of the school concerned, or, as is more commonly the case, after consideration of a report from a committee on which the county and district body are represented in the proportion respectively of five to three.

It was stated on behalf of the Government in the House of Commons on December 8, 1902, 'that voluntary school teachers were under the existing system appointed by the managers of the school and would continue to be so appointed, that there was no change of employment although there was a change of master and they would remain employés of the managers subject to the powers of the local education authority under the Bill—and that to place voluntary school teachers on the same footing as school board teachers—to make them technically officers—would be inconsistent

Relation of teachers and managers.

Notes to
Section
7 (7).
—

Dismissal
of teacher.

Consent to
dismissal.

'with the scheme of the Bill.' As is implied in the above statement, the teachers who are now to be paid by the local education authority are not in all respects employes of the managers. They will, however, in the ordinary course continue to take instructions as to their conduct and the conduct of their scholars, the methods and times of teaching, the examination and efficiency of the scholars, from the managers, and in the event of the managers coming to the conclusion by a resolution duly passed that a teacher is incompetent to carry out his duties, or that for any other reason it is desirable in the interests of the school that he should be dismissed, they will have the power in the first instance without reference to the local education authority to dismiss him.

It will then follow from §7 (1) (c) that the consent of the local education authority will be required to the dismissal, unless the dismissal be on grounds connected with the giving of religious instruction in the school.

This provision will render it difficult for managers to fulfil their duties as regards the secular instruction, until they have first consulted the local education authority where any serious default on the part of the teacher is in question, and it is probable that, unless the dismissal be on grounds connected with the giving of religious instruction, they will wish to strengthen their position by assuring themselves of the local education authorities' consent before serving a notice of dismissal.

In these circumstances managers will probably wish to obtain the express authority, as well as the consent, of the local education authority, when appointing a teacher (*see* note 9 to §7 (1) (c), *supra*) to enter into the agreement with him in such a form (*see* p. 581), as to shew that the local education authority are alone responsible for the payment of the salary, to obtain the consent of that authority before giving formal notice of dismissal to a teacher on a ground not connected with the giving of religious instruction in the school, and to be careful that any resolution relating to the dismissal of a teacher which is carried without such consent having been obtained is exclusively based on a ground connected with the giving of religious instruction in the school and shows on its face that it is so based.

The same difficulties do not arise in connection with the appointment of teachers.

Appointment
of teacher.

As regards appointment subsection (7) makes it clear that the selection of a teacher is a matter exclusively under the control of the managers. The words being 'the consent of the local education authority shall not be withheld from the appointment except on educational grounds,' it will not be open to the local education authority in considering whether they shall or shall not withhold their consent to take specially into account the denomination to which the teacher may belong, though they would not seem to be precluded from considering his religious qualifications to teach if they should think fit to do so.

8.—(1) Where the local education authority or Section 8. Provision of new schools. any other persons propose to provide a new public elementary school,¹ they shall give public notice of their intention to do so, and the managers of any existing school, or the local education authority (where they are not themselves the persons proposing to provide the school), or any ten ratepayers in the area² for which it is proposed to provide the school, may, within three months after the notice is given, appeal to the Board of Education on the ground that the proposed school is not required, or that a school provided by the local education authority, or not so provided, as the case may be, is better suited to meet the wants of the district than the school proposed to be provided, and any school built in contravention of the decision of the Board of Education on such appeal shall be treated as unnecessary.³

(2) If, in the opinion of the Board of Education, any enlargement of a public elementary school is such as to amount to the provision of a new school, that enlargement shall be so treated for the purposes of this section.⁴

(3) Any transfer of a public elementary school to or from a local education authority shall for the purposes of this section be treated as the provision of a new school.⁵

¹ It was for many years the practice of the Education Department, Former practice as to new schools. in considering whether a school applying for an annual grant was to be regarded as unnecessary or not, to make a distinction between cases arising in a school board district and cases arising in a district in which there was no school board.

There were in the Elementary Education Acts no indications of the principles upon which cases arising in districts in which there was no school board should be treated. One of the general conditions of annual grants prescribed by the Day School Code (Art. 80) was, however, that 'the school must not be unnecessary'; but a note to that Article provided 'in a district not under a school board a school 'is not deemed to be unnecessary if at the date of its application for 'an annual grant it is recognised as a certified efficient school, and 'has had during the twelve months preceding such application an

**Notes to
Section 8.**

'average attendance of not less than 30 scholars.' This provision, while not standing in the way of the immediate recognition for the purposes of a grant of a school which was clearly not unnecessary, furnished a working test for doubtful cases.

Recent
practice as
to new
schools.

In a school board district, the Department, till recent years, generally acted on the view that the school board possessed under the Statute the prior right of making good any deficiency of accommodation which might be shown to exist. Accordingly, if the school board and voluntary managers applied for grants to a school designed to supply an admitted deficiency, the Department accepted the school board's proposal to the exclusion of others. A corollary from this view was that not only were all proposals on the part of voluntary managers to supply a new school referred by the Department to the school board for their observations, but the view which the school board took of such proposals was acted upon, even to the extent of allowing grants, if the application was supported by the school board, where it did not appear that there was any actual present deficiency of public school accommodation. The theory of the 'prior right' of school boards, on which this practice was based, has been abandoned in recent years, and although it has still remained the practice of the Board of Education to invite the view of the school board on any proposals of voluntary managers to provide a new school, and to consider the reasons urged by the school board in support of that view, the claims of the voluntary managers to provide accommodation have been treated on an equality with the claims of the school board, and more regard than was possible under the theory previously prevailing has been paid to the question of the comparative suitability to the circumstances of the district of the different kinds of school accommodation which it was proposed to supply.

School in
course of
erection.

The Board of Education have stated that they are advised that a school actually in course of erection, upon plans approved by them, would not come under the provisions of §§8 and 9 of the Act merely because it was not opened as a public elementary school before the 'appointed day.'

As to the question whether on any occasion when an existing tenancy of a school is renewed, or when a school building hitherto let to a body of lessees is again let to another body of lessees it may be regarded as a new elementary school, within the meaning of this section, it may be observed that the continuity of a public elementary school is not necessarily affected in any way by the tenure of the school house in which it is carried on.

'Area.'

² The term 'area' in this subsection does not appear to be equivalent to the term 'school district' under the Elementary Education Acts, but to mean the area from which it is contemplated that children attending the school will be drawn.

School
treated as
unnecessary.

⁸ The effect of treating the school as unnecessary is that it does not come within §7 (1), which provides that the local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, and that therefore it does not comply with one of the conditions required to be fulfilled—§7 (4)—by an elementary school in order to obtain a Parliamentary grant.

⁴ 'Enlargement' is presumably something different from the 'alterations and improvements' referred to in §7 (1) (d). Section 9.

As the word 'school' includes 'department of a school' the addition of a new department will *prima facie* amount to the provision of a new school for the purposes of this section. 'Enlargement.'
New department.

⁵ Such a transfer may take place on the termination of an arrangement under §23 of the Elementary Education Act, 1870, or on the lease of a school to a local education authority under §19 of that Act, or on the termination of such a lease; and but for this subsection the Board of Education might have had no opportunity of considering whether it was desirable or not that the school should be maintained as 'a school not provided by the local education authority,' i.e. as a voluntary school. Transfer.

9. The Board of Education shall, without unnecessary delay, determine, in case of dispute, whether a school is necessary or not,¹ and, in so determining, and also in deciding on any appeal as to the provision of a new school, shall have regard to the interest of secular instruction, to the wishes of parents as to the education of their children,² and to the economy of the rates; but a school for the time being recognised as a public elementary school shall not be considered unnecessary³ in which the number of scholars in average attendance,⁴ as computed by the Board of Education, is not less than thirty. Necessity of schools.

¹ Prior to the passing of this Act, the question whether a school was necessary usually arose only on the application to place the school on the annual grant list, and §98 provided that if the managers of any school situate in the district of a school board, whether such managers were a school board or not, applied for a Parliamentary grant, the Education Department might refuse the application if they thought that such school was unnecessary. Article 80 of the Code provided as a condition of an annual grant that the school must not be unnecessary, whether the school was situate in the district of a school board or not. A note to that article stated that in a district not under a school board, a school was not deemed to be unnecessary if at the date of its application for an annual grant it was recognised as a certified efficient school, and had had during the preceding twelve months an average attendance of not less than thirty scholars, but a school was not allowed the benefit of this provision if it was available for the same population as another school receiving the special grant given to schools for small populations. Former questions as to necessity.

Under the Education Act, 1902, the question whether a school is necessary or not will arise— Questions as to necessity under this Act.

- (1) on applications by schools to be put on the grant list;
- (2) on appeals as to the provision of a new school;

Section 10. (3) in respect of schools already on the list if the local education authority considers that a school is not necessary within the meaning of §7 (1), and on that ground refuses to maintain it.

Change
effected
by Act.

² Formerly the Education Department, in deciding questions as to whether a school was necessary, used to consider that if there were sufficient accommodation available in public elementary schools which were subject to the conscience clause, then sufficient provision had been made and further accommodation was *prima facie* unnecessary, and that no obligation to take other circumstances into account was imposed on them by the statute. The words 'shall have regard to the wishes of parents as to the education of their children' alter this, and impose on the Board of Education the duty of taking into consideration the wishes of the parents whose children do or might attend the school in favour of or against the religious instruction given or proposed to be given in the school.

³ The principle of the rule laid down, with regard to the treatment of the application of a school to be recognised as a public elementary school, by the note to Article 80 of the Code (*see* note 1, *supra*) is made applicable by these words to the treatment of the question of the continued maintenance of a school already recognised as a public elementary school at the time when the question arises.

Average
'attend-
'ance.'

⁴ Article 14 of the Code provides that 'average attendance' for any period is found by dividing the total number of 'attendances' during the period by the number of times for which the school has met.

Aid Grant.

10.—(1) In lieu of the grants under the Voluntary Schools Act, 1897, and under section ninety-seven of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897, there shall be annually paid to every local education authority, out of moneys provided by Parliament¹—

- (a) a sum equal to four shilling per scholar; and
- (b) an additional sum of three halfpence per scholar for every complete twopence per scholar by which the amount which would be produced by a penny rate on the area of the authority falls short of ten shillings a scholar;² Provided that, in estimating the produce of a penny rate in the area of a local education authority not being a county borough, the rate shall be calculated upon the county rate basis,³ which, in cases where

part only of a parish is situated in the area of the local education authority, shall be apportioned in such manner as the Board of Education think just. Section 10.

But if in any year the total amount of Parliamentary grants⁴ payable to a local education authority would make the amount payable out of other sources by that authority on account of their expenses under this Part of this Act less than the amount which would be produced by a rate of threepence in the pound, the Parliamentary grants shall be decreased, and the amount payable out of other sources shall be increased by a sum equal in each case to half the difference.⁵

(2) For the purposes of this section the number of scholars shall be taken to be the number of scholars in average attendance, as computed by the Board of Education, in public elementary schools maintained by the authority.⁶

¹ For the grant under the Voluntary Schools Act, 1897, *see* §1 of that Act, and the notes thereon (p. 706), and for the grant under §97 of the Elementary Education Act, 1890, as amended by the Elementary Education Act, 1897, *see* §1 of the latter Act, and the note thereon (p. 711). These grants amounted annually to about £625,000, and £225,000 respectively, and it is estimated that the grant which is now substituted for them will annually amount to about £2,220,000, being an increase over the previous payments of about £1,350,000 a year. Amount of Aid Grant.

² Apart from the exceptional cases, when the amount payable out of sources other than the Parliamentary grants on account of expenditure under Part III. of the Act is less than the amount which would be produced by a threepenny rate, and when, consequently, the full amount of Aid Grant otherwise payable under the section will not be paid (*see* note 5, *infra*), the effect of this section is that every local education authority receives an Aid Grant consisting of (1) a fixed grant, at the rate of 4s. per scholar in average attendance in public elementary schools maintained by the authority, (2) a variable grant, of which the basis for all areas is 1½d., but which is calculated for different areas on a sliding scale, and varies with the ratio between the rateable value and the number of scholars in average attendance. The manner in which the sliding scale operates may be illustrated General effect of section.

Notes to
Section 10.

thus. There are, say, 12,000 scholars in average attendance in the area of an authority. The amount produced by a penny rate is, say, £2400, which works out at 4s. per scholar. This sum falls short of 10s. per scholar by 6s. or thirty-six 'complete twopences.' Then the variable grant will be 12,000 times 1½d. multiplied by thirty-six, or £2700.

Similarly, in a richer area, with the same number of scholars, where the amount produced by a penny rate is £4800, which works out at 8s. per scholar, and falls short of 10s. per scholar by twelve 'complete twopences,' twelve must be substituted for thirty-six in the final calculation, and the variable grant will therefore only amount to £900.

The fixed grant will, of course, be the same in each of the two districts, viz.: 4s. multiplied by 12,000, or £2400.

Example.

The calculation in the second illustration given above may be shown in tabular form thus:—

	£	s.	d.	£	s.	d.
(1) Fixed Grant						
Basis	0	4	0			
Average attendance			12,000			
Amount of fixed Grant	2400	0	0	2400	0	0
(2) Variable Grant						
Basis	0	0	1½			
Average attendance			12,000			
Product	75	0	0			
'Complete twopences'			12			
Amount of Variable Grant	900	0	0	900	0	0
Total Aid Grant				3300	0	0

Formula.

Expressed in shillings per scholar the grant will be:

4s. + $\frac{1}{8} \times$ the number of complete twopences in (10s. - produce of 1d. rate per 'scholar').

This is equivalent to

4s. + $\frac{1}{8} \times$ the number of complete twopences in $\left(10s. - \frac{\text{produce of 1d. rate}}{\text{number of 'scholars'}}\right)$.

or again to

4s. + $\frac{1}{8} \times$ the number of complete pennies in $\left(5s. - \frac{\text{produce of } \frac{1}{2}\text{d. rate}}{\text{number of 'scholars'}}\right)$.

Alternative
formula.

The total amount of the grant in a case where the number of scholars is n and the number of complete twopences in 10s. — produce of 1d. rate per scholar is x will be expressed in shillings by:

$$n \times \left(4 + \frac{x}{8}\right) \text{ or } 4n + \frac{xn}{8} \text{ shillings.}$$

Produce
of rate.

With regard to the determination for the area of any local education authority of the 'amount which would be produced by a 'penny rate' on that area, see §23 (4), *infra*, which provides that the amount which would be produced by any rate in the pound shall be

estimated for the purposes of this Act in accordance with Regulations made by the Local Government Board. Notes to Section 10.

³ The effect of this proviso is that, in a non-county borough or urban district, the council of which is a local education authority for the purpose of Part III. of this Act, the same rate basis is to be adopted as is adopted in the county in which the borough or urban district is situated. County rate basis.

⁴ The term 'Parliamentary grants' in this paragraph includes the annual grant under the Code, the fee grant under the Elementary Education Act, 1891, the grants, if any, under the Elementary Education (Blind and Deaf Children) Act, 1893, and the Elementary Education (Defective and Epileptic Children) Act, 1899, as well as the aid grant itself. The term does not include any grants paid by the Board of Education in respect of education other than elementary, or the 'residue grant' under the Local Taxation (Customs and Excise) Act, 1890, or any grant under the Agricultural Rates Act, 1896. 'Parliamentary grants.'

⁵ The effect of this provision may be illustrated as follows, if for the sake of simplicity, a case is supposed in which the local education authority have no source of income available for the purpose of meeting their expenses under Part III. of the Act other than rates and Parliamentary grants (*see* note 4, *supra*). Possible limitation of grant.

If an amount which would be produced by a rate of $2\frac{1}{4}$ d. in the pound [one halfpenny less than 'threepence'] will with the sum of the Parliamentary grants be sufficient to meet the expenses under Part III. of the Act, then a deduction will be made from the Parliamentary grants equivalent to the produce of a rate of $\frac{1}{4}$ d. in the pound ['half the difference'] and a like amount must be added to the amount raised by rates, making the rate in the pound $2\frac{1}{4}$ d. instead of $2\frac{3}{4}$ d.

Or, to revert to the illustration given in note 2, *supra*, of the local education authority with 12,000 scholars, and a penny rate producing £4800 (8s. per scholar)

The annual expenditure is, say,	£30,000								
The Parliamentary grants would be, were it not (as regards aid grant) for this proviso,	<table> <tr> <td>Annual grant, say, at 20s. 6d.,</td><td>£12,300</td></tr> <tr> <td>Fee grant, at 10s.,</td><td>6,000</td></tr> <tr> <td>Aid grant (<i>see</i> previous note),</td><td>3,300</td></tr> <tr> <td></td><td>21,600</td></tr> </table>	Annual grant, say, at 20s. 6d.,	£12,300	Fee grant, at 10s.,	6,000	Aid grant (<i>see</i> previous note),	3,300		21,600
Annual grant, say, at 20s. 6d.,	£12,300								
Fee grant, at 10s.,	6,000								
Aid grant (<i>see</i> previous note),	3,300								
	21,600								

Balance, payable out of rates, £8,400

This requires a rate of $1\frac{1}{4}$ d. only, which is less than 'threepence' by $\frac{1}{4}$ d. The Parliamentary grants will therefore have to be decreased by £3000 the produce of a rate of $\frac{1}{4}$ d. or 'half the difference,' and the amount payable out of rates, to balance the expenditure, will have to be increased by a like amount, making the rate in the pound $2\frac{3}{4}$ d. instead of $1\frac{1}{4}$ d.

It will be observed that, in the case supposed, no decrease in the Parliamentary grants would have to be made if the annual expenditure were £36,000, since, the Parliamentary grants being £21,600, a rate of 3d. in the pound would have to be raised in order to produce the amount (£14,400) required to balance the expenditure.

Section 11.

It may be pointed out that the proviso does not enact that the Parliamentary grants shall be decreased unless a rate of 3d. in the pound is actually raised. If the amount payable out of sources other than the Parliamentary grants on account of the expenses under Part III. of the Act, whatever such sources may be, is not less than the amount which would be produced by a rate of 3d. in the pound, no decrease will be made in the grants. Thus it would suffice, for this purpose, if nine-tenths of the amount payable were derived from rates actually levied, and one-tenth from fees and endowments.

'Average
'attend-
'ance.'

⁶ Articles 12 and 13 of the Code (pp. 571, 572) define what is and what is not included in the expression 'attendance,' and Article 14 provides that the average attendance for any period is found by dividing the total number of 'attendances' made during that period by the number of times for which the school has met during such period. It appears from the form issued to local education authorities with the Board of Education's circular of 31st March 1903, that the additional attendances allowed under Article 12 (b) of the Code (allowance for half-time scholars) will be taken into account in calculating the average attendance on which the aid grant will be paid, but not the allowance made under Article 101* (allowance for epidemic sickness).

The Board of Education have stated, with regard to the question whether it would be practicable to bring §10 into operation for any area before the whole of the public elementary schools in the area, whether provided or not provided by a school board, had come under the control of the local education authority, that in their opinion the aid grant under this section could not be calculated equitably unless all the public elementary schools in the area concerned were included in the purview of the local education authority, and that they do not consider that the grant could be paid at all in respect of a period during which the aid grant under the Voluntary Schools Act, 1897, was still in operation in the area in question.

Founda-
tion
managers.

11.—(1) The foundation managers¹ of a school shall be managers appointed under the provisions of the trust deed of the school, but if it is shown to the satisfaction of the Board of Education that the provisions of the trust deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.²

(2) Any such order may be made on the applica-

tion of the existing owners, trustees, or managers of the school, made within a period of three months after the passing of this Act, and after that period on the application of the local education authority or any other person interested in the management of the school, and any such order, where it modifies the trust deed, shall have effect as part of the trust deed, and where there is no trust deed shall have effect as if it were contained in a trust deed. Section 11.

(3) Notice of any such application, together with a copy of the draft final order proposed to be made thereon, shall be given by the Board of Education to the local education authority and the existing owners, trustees, and managers, and any other persons who appear to the Board of Education to be interested, and the final order shall not be made until six weeks after notice has been so given.

(4) In making an order under this section with regard to any school, the Board of Education shall have regard to the ownership of the school building, and to the principles on which the education given in the school has been conducted in the past.³

(5) The Board of Education may, if they think that the circumstances of the case require it, make any interim order on any application under this section to have temporary effect until the final order is made.⁴

(6) The body of managers appointed under this Act for a public elementary school not provided by the local education authority shall be the managers of that school both for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, and, so far as respects the management of the school as a public elementary school, for the purpose of the trust deed.

(7) Where the receipt by a school, or the trustees or managers of a school, of any endowment or other

Section 11. benefit is, at the time of the passing of this Act, dependent on any qualification of the managers, the qualification of the foundation managers only shall, in case of question, be regarded.⁵

(8) The Board of Education may, on the application of the managers of the school, the local education authority, or any person appearing to them to be interested in the school, revoke, vary, or amend any order made under this section by an order made in a similar manner; but before making any such order the draft thereof shall, as soon as may be, be laid before each House of Parliament, and, if within thirty days, being days on which Parliament has sat, after the draft has been so laid before Parliament, either House resolves that the draft, or any part thereof, should not be proceeded with, no further proceedings shall be taken thereon, without prejudice to the making of any new draft order.

**Memo-
randum as to
Foundation
Managers.**

¹ The following Memorandum, which was issued by the Board of Education on the 20th December 1902, in order to assist owners, trustees, and managers of voluntary schools to decide whether they would apply for an order under this section, states the views of the Board on several questions which arise in connection with §11, and indicates the information which they consider material for the purpose of settling the terms of their orders appointing foundation managers:—

[Form E. A. 1.]

MEMORANDUM.

FOUNDATION MANAGERS.

**New con-
ditions of
Manage-
ment.**

1. The Education Act, 1902, materially alters the conditions under which voluntary public elementary schools are at present managed, and this preliminary memorandum has been prepared by the Board of Education in order to assist owners, trustees, and managers of such schools to decide whether they will apply for an order under §11 of the Act, and in order to facilitate the work of making and considering such applications. It must be regarded as subject to such modification as further experience may show to be necessary.
2. Every such voluntary school will henceforth be managed by a body normally consisting of six persons, of whom four will be 'foundation managers' representing the interests of those by whom the school was established or is at present managed.

The manner of their appointment under the Act is the chief subject of this memorandum. The remaining two managers will be representative of local authorities. (As regards the possibility of a larger number of managers than six, *see infra*, paragraph 17 (a).) The 'foundation managers' will, although appointed in a different manner, act together with the two other managers for all the purposes of conducting a public elementary school, and with them will compose the body which is spoken of in the Act as 'the managers of the schools.'

Notes to
Section 11.

3. If the school has a 'trust deed' (an expression explained below, paragraph 6), and the deed permits of the appointment of four foundation managers and gives sufficient and practicable directions as to the manner of their appointment, the intervention of the Board will not usually be required, and the present managers will only have to see that four such managers are properly appointed to act with the two other managers. If, however, this is not the case, then the proper course for the present owners or trustees or managers is to apply to the Board of Education for an order under §11 of the Act for the purposes of meeting the case. It is expected that such an order will be found necessary for a large majority of voluntary schools. Any failure to make or delay in making application, where such is necessary, may result in serious embarrassment and inconvenience to the district served by the school.

'Foundation
'Managers'
must be
appointed.

If the owners or trustees or managers do not think fit to apply to the Board for such an order within three months of the passing of the Act, the local education authority, or any person interested, may after that period make application.

4. It is to be remembered that (except in the case of such privately owned schools as are the absolute property of the owner, and are subject to no trusts whatsoever), managers and trustees of elementary schools usually hold the school premises upon trust, either themselves to carry on a school therein or to permit it to be carried on. It is therefore not open to either body, or even to both bodies acting together, to close the school as or when they please. An attempt to close the school capriciously or for insufficient reasons may involve the consequences attendant on a breach of trust. If trustees or managers are unable or unwilling to carry on the school it is their duty at once to apply to the Board of Education (who for this purpose may exercise the powers formerly possessed by the Charity Commissioners) to be relieved of their trust or for direction in the matter.

Trustees and
Managers
have no
power to
close
schools.

The following paragraphs of this memorandum assume that it is intended to carry on the school in accordance with the trusts, except in so far as those trusts are modified by the Act.

5. Section 11 provides that 'if it is shown to the satisfaction of the Board of Education that the provisions of the trust-deed as to the appointment of managers are in any respect inconsistent with the provisions of this Act, or insufficient or inapplicable for the purpose, or that there is no such trust-deed available, the Board of Education shall make an order under this section for the purpose of meeting the case.'

Section 11.

**Notes to
Section 11.**

Trust-Deeds.

6. Under §24 (5) the expression 'trust-deed' includes 'any instrument regulating the trusts or management of a school.'

For the purposes of the Act, therefore, the term 'trust-deed' includes not only deeds in the ordinary sense, but also any of the following instruments if they provide for the appointment of trustees or give directions for the management of a school or its endowment, viz. :—

- i. Orders of the Court of Chancery ;
- ii. Orders of a county court under the Charitable Trusts Acts, 1853 and 1860 ;
- iii. Orders of the Charity Commissioners ;
- iv. Schemes made under the Endowed Schools Acts ;
- v. Schemes made by the Education Department under §75 of the Elementary Education Act of 1870 ;
- vi. In the case of privately owned schools, a lease or agreement in writing by which a school is let to managers for the purposes of a school *may be usually regarded as a trust-deed*, and any trust declared therein attaches to the whole of the tenants' interest whatever it may be. The proper course of action in such cases is indicated below (paragraph 11).

**Who may
apply.**

7. Application for an order under §11 may be made within three months of the passing of the Act by 'the existing owners, 'trustees or managers of a school.' The trustees are those persons in whom the property in the school premises is now vested. These persons may also be entitled to act as managers, but in the case of most elementary schools the two bodies are distinct.

For the purpose of this Act it is indifferent whether the application is made by the trustees or by the managers, but in any case the application should be signed by a majority of the body which applies. It is also obviously desirable that before applying the managers and trustees should consult one another, and also the owner if there is one.

**Form of
application.**

8. Application should be made on the special form provided for the purpose (Form E. A. 2), and it is important that full information under the several heads should be given. Any failure to supply the information required may lead to considerable delay in dealing with the case. Applications should be either sent directly to the Secretary, Board of Education, Whitehall, or transmitted through the secretary of any voluntary school association to which the school may belong. The latter course is perhaps the most convenient, in order that the applications may reach the Board in batches corresponding to geographical or administrative divisions, and that time may be saved in dealing with them.

**Recom-
mendations.**

9. In cases where an order is required (*see* below, paragraph 17) to adapt the provisions of the deed to the new conditions of management created by the Act, and where the trust-deed departs from the usual type or contains unusual provisions as to the management of the school, it is desirable that special recommendations should be made by the applicant as to the provisions to be embodied in the order. In other cases

recommendations may conveniently be made (in the case of denominational schools) in or by reference to one of the forms adopted by the National Society, or associations of Church of England, Roman Catholic, Wesleyan, or other schools. It is desirable that where schools have trust-deeds of a similar type uniformity in the provisions relating to the appointment of foundation managers should be secured, as far as is possible consistently with due regard to the trust-deed and local circumstances.

Notes to
Section 11.

10. Where there is no trust-deed and the school is not claimed as private property, but is held on implied trusts (*i.e.* such as may be presumed from usage), it is undesirable that the persons now managing the school should attempt to make a trust-deed; they should either apply to the Board for an Order under §11 of the Act, or, in case of doubt or difficulty as to their rights and duties, for direction under the Charitable Trusts Acts.

No Deed,
but implied
Trusts.
11. Where school premises are held by lease or agreement from a private owner, it is not open to the owner, pending the term of the tenancy, to modify the trusts on which the premises are held. In such cases, if the conditions of letting do not allow of the appointment of the number of foundation managers required by the Act, it is the duty of the owner or the managers to apply to the Board for an order under §11 (see also *infra*, paragraph 14).

Existing
Lease.
12. In cases of doubt or difficulty where the trust-deed is defective or insufficient in any particulars, the trustees should not attempt to supplement it by a new deed, but should apply for direction to the Board of Education (exercising the powers formerly belonging to the Charity Commissioners in respect of purely educational endowments).

Defective
Deed.
13. The defects in a deed may be cured by an order under §11; where this is not possible it is open to the trustees to apply to the Board of Education for a scheme, but no schemes will be made at present unless it is clearly shown that an order would be insufficient to secure the proper management of the school.

Schemes.
14. Where school premises are the property and in the possession of a private owner free from any trusts, express or implied, for educational purposes, several courses are open to him.

No Trusts—
Schools
which are
absolute
property of
Owner.

 - i. He may retain them in his own hands and as his absolute property, permitting them to be used by managers appointed by himself. In this case, as there is no trust-deed, he will have to apply to the Board of Education for an order appointing foundation managers. This course is perhaps the least convenient.
 - ii. He may execute a declaration of trust making himself, either alone or jointly with others, trustee of the school, either in perpetuity or for a fixed period.
 - iii. He may convey the school to trustees in perpetuity.
 - iv. He may let the school to managers by lease or agreement for a term of years, or from year to year, at a nominal or a substantial rent. This rent must now be paid by the managers out of funds other than those

Notes to
Section 11.

provided by the local education authority, and must not be charged in the school accounts.

In the second, third, and fourth cases above mentioned, he may insert in the trust-deed, lease, or agreement, such provisions as to management and mode of appointing managers as he thinks fit. If these provisions are consistent with and sufficient for the purposes of the Act, no order under §11 will be required. It is obviously desirable that in any case he should act under competent legal advice, and the Board of Education cannot undertake to advise an owner as to the manner in which he should carry out his intention.

It may be noted that if the owner lets the school to a local education authority it becomes a 'Provided' school subject to the 'Cowper-Temple Clause,' and all the other provisions of the Act applicable to such schools will attach to it. The relations between the owner and the local authority will be merely those of landlord and tenant.

Lost Deed.

15. An order under §11 will be required in all cases where there is no trust-deed or where the trust-deed is not available. Where a trust-deed is known to have existed, every effort should be made to discover it. Where the trust-deed cannot be found, particulars should be given in the application form of any draft, abstract, or other documents, from which the trusts of the school may be collected.

Where
Deed never
existed.

16. Where no trust-deed is known to have existed, it is important that full particulars of the usage which has prevailed in the management of the school at different periods should be supplied. The direction contained in §11 (4) that the Board 'shall have regard to . . . the principles on which the education 'given in the school has been conducted in the past,' is specially applicable to such cases.

Order
required to
supplement
Deed.

17. It is apprehended that where there is a trust-deed an order will usually be required in the following cases:—
(a) Where the trust-deed contemplates a number of managers either greater or lesser than four.

Number of
Foundation
Managers.

Four is the normal number of foundation managers contemplated by the Act and will usually be found the most convenient. Under the provisions, however, of §6 (3) (b), the local education authority may increase the total number of managers, the foundation managers and local authority's managers being proportionately increased. In the circumstances to which §6 (2) (b), of the Act applies (viz., where the local education authority are the council of a borough or urban district) the number of managers of the two classes respectively might be 6 and 3; but where the local education authority are the council of a county, the number of managers must be increased (if increase is thought desirable) to 8 and 4 respectively, or to some other multiple of 4 and 2. It will probably be found in most cases that 12 is an inconveniently large number of managers. Orders of the Board under §11 will be so drawn as to meet the case of future increase in the number of managers.

(b) Where the trust-deed gives (i) no directions as to the appointment of managers, or (ii) such directions as cannot be fulfilled. Notes to Section 11.

(c) Where by reason of changes in local or other circumstances, the trust-deed has become inapplicable for the purposes of the management of the school, or a strict adherence to the letter of the deed would defeat its intention.

18. In order to avoid delay in bringing this part of the Act into operation, it is probable that most orders under this section will, in the first instance, be made in the form of 'interim orders,' which will not be confirmed until the local education authorities have had time to make preparation for the proper consideration of the notices and draft final orders, which, under the section, will be sent to them as well as to the owners, trustees, and managers. Interim Orders.

In ordinary cases, notices and draft final orders will also be sent by the Board of Education to the parish council or parish meeting or other minor local authority of the area in which the school is situated, as representing 'other persons interested.'

19. It will greatly assist the Board if bodies of trustees and managers will appoint some person to receive and distribute all notices and orders on their behalf. Clerk.

The following is the Form of Application referred to in the above Memorandum, which is according to the covering letter to be filled up in duplicate, the one copy being retained, and the other copy being returned to the Board of Education, either direct or preferably through the secretary of the association to which the school belongs. Form of Application.

Form E.A. 2.

FORM OF APPLICATION TO THE BOARD OF EDUCATION FOR AN ORDER UNDER §11 OF THE EDUCATION ACT, 1902.

† Name some person authorised to receive draft orders and notices on behalf of the trustees and managers.	County
	Parish
	School
	School Number
	†Clerk (Name and Address.)
	Association (if any)
	Denomination (if any)

* Strike out words not applicable. The undersigned, being *owners, trustees, managers** of the said school, and having regard to the statement of facts set out below, do hereby apply to the Board of Education for an order constituting a body of Foundation managers under §11 of the Education Act, 1902.

As witness our hands this day of 1902.

Applicants should state whether they sign as owners, trustees, or managers. The application should be signed by at least a majority of the trustees or managers.

Recommendations.

The applicants recommend that provisions to the following effect should be embodied in the order :—

Recommendations may be made by reference to forms adopted by the National Society, Roman Catholic, Wesleyan, or other Association of which copies have previously been deposited with the Board of Education.

STATEMENT OF FACTS.

A. *Form to be used where there is a Trust-Deed or other written instruments declaring the Trusts.*

1. ‡DEED, STATE—

‡ If the deed is lost, state whether a draft or abstract is in existence.

- (a) date of deed (of conveyance, lease or declaration of trust)
- (b) date of enrolment (if enrolled)
- (c) whether conveyance purports to be under School Sites Acts and whether voluntary or for valuable consideration
- (d) date of any order of Court of Chancery, County Court, Charity Commissioners appointing trustees, or affecting the school or its endowment
- (e) whether the deed is in the form of a model deed of any society or denomination, or places the school in union with the National or any other Society
- (f) name and address of person having the custody of the deed, or the place where it is kept . . .

2. †OWNER, STATE—

† This head is to be filled up if the school premises are held by lease or agreement or at will.

- (a) Name and address of owner or lessor or his agent . . .
- (b) Date and term of lease or agreement . . .

3. TRUSTEES, STATE—

* If the school premises were conveyed to the vicar, churchwardens, or overseers, and their successors or any of them, it is sufficient to state this fact, and the three following heads (b) (c) (d) need not be filled up, unless the deed has been modified by scheme.

- *(a) who were the trustees appointed by the deed or the persons to whom the school premises were conveyed or leased
- (b) directions given by the deed as to future appointment of trustees
- (c) date of last instrument or order appointing trustees . . .

Notes to
Section 11.

- (d) names and addresses of present trustees (other than vicar, churchwardens and overseers *ex officio*) and mode of appointment
- (e) any special powers given to trustees, *e.g.* powers of acting as or appointing managers
- (f) if the trustees of the school are as such trustees of any endowment applicable in connection with the school, the name of such endowment
- (g) if the original trust deed has been modified by any scheme, particulars of such scheme

4. MANAGERS, STATE—

- (a) full number of managers, and the mode of appointment and qualifications *prescribed by deed*,

<i>i.e. ex officio</i>	Full number.	state qualifying office
nominated		state by whom nominated
elected		state by whom elected
TOTAL		{ denominational qualification of electors } { qualifying subscription of electors } { denominational qualification of managers } { qualifying subscription of managers }

- (b) whether the chairman of the managers }
 is elective or *ex officio* }
- (c) names and addresses of present managers—

- (i) legally appointed under deed
- (ii) Acting managers not legally appointed, giving mode of appointment

- (c) any special powers given to managers

5. SUBSCRIBERS AND DONORS, STATE—

- (a) number of subscribers of (i) amount specified in deed
- | | 1900 | 1901 | 1902 |
|---|------|------|------|
| number of subscribers (ii) sums of 2s. 6d. and upwards in each of last three years. | | | |

THE EDUCATION ACT, 1902.

Notes to
Section 11.

- (b) number of surviving donors of £5 in one sum and upwards to the funds of the school or towards purchase of site and erection or extension of buildings }
 (c) names of societies who have contributed £10 in one sum and upwards

***6. CHARACTER OF SCHOOL AND INSTRUCTION, STATE—**

* This head need not be filled up in the case of Schools united by deed with the National Society.

- (a) any general directions of the deed as to the principles on which the school is to be conducted
 (b) any directions of the deed as to religious instruction and the persons by whom it shall be given or superintended
 † The particulars asked for in the following Form B. 8 should be given here. (c) if there are directions as to religious instruction, state the usage which has prevailed during the last twenty years

The Statement of Facts should be certified by one of the Trustees or Managers of the School or by some person appointed by them.

I certify that the above statement is correct to the best of my knowledge.

Signature

Address

B. Form to be used where there is no Trust-Deed or other written instrument declaring the Trusts.

1. ORIGIN OF SCHOOL, STATE—

- (a) Earliest date at which the school }
 is known to have existed . . . }
 (b) mode of establishment of school }
 if known }
 (c) subsequent history of school, giving dates and particulars of expenditure on buildings, and the sources from which it was provided
 (d) date and effect of any order of the Court of Chancery, County Court, or Charity Commissioners relating to the school, its endowments, or management

2. MANAGERS, STATE—

- (a) names, addresses, and mode of appointment of persons now acting as managers }
 (b) manner in which vacancies among managers have usually been filled up

3. CHARACTER OF SCHOOL, STATE—

- (a) whether the school has been united with the National or any other Society, and if so, at what date and on what conditions }
 (b) the usage which has prevailed during at least the last 20 years as regards religious instruction

- s.g.* (i) whether religious instruction has been given in accordance with the principles of the Church of England or any other denomination . . . }
 (ii) whether it has been superintended by the minister or any other person *ex officio* }
 (c) any special usage affecting the character of the school

Notes to
Section 11.

4. DONORS AND SUBSCRIBERS, STATE—

1900 1901 1902

- (a) number of subscribers of sums of 2s. 6d. and upwards in each of the last three years . . . }
 (b) number of surviving donors of £5 in one sum and upwards to the funds of the school or towards purchase of site and erection or extension of buildings . . . }
 (c) names of societies who have contributed £10 in one sum and upwards

The statement of facts should be certified by one of the managers or by some person appointed by them.

I CERTIFY that the above statement is correct to the best of my knowledge.

Signature

Address

The Applicants are requested to confine their recommendations in the body of the Form to eight lines and to use the space at the end for giving any material information or explanations which could conveniently be compressed into the form.

With reference to the opinion expressed in §14 (i) of the foregoing memorandum, that the course mentioned therein is 'perhaps the least convenient' for the owner to adopt under the circumstances, the Board of Education have pointed out (i.) that, after an application has been made to them, they are bound to have regard, not only to the owner's wishes but to other circumstances (subsection (4)), and that consequently a conflict of opinion which it would be desirable to avoid may arise; (ii.) that after a final order has been made it cannot be revoked, varied, or amended, except by the procedure mentioned in subsection (8), which requires the draft of any fresh order to be laid before Parliament.

Private
owners.

² This section enables the Board of Education by an order to be made for that purpose by them, to alter the provisions of the trust deed as to the appointment of managers, wherever they are in any respect inconsistent with the provisions of this Act, or insufficient, or inapplicable for the purpose.

Appoint-
ment of
Foundation
Managers.

It will be observed by managers who are submitting applications under subsection (2) of §11 that the appointments by the local education authority will be rendered valid by the Act itself, and that, as the persons so appointed will require no qualification, there will be no question of their right to attend and vote at meetings. In such cases it will be possible for the Board of Education to provide

Applica-
tions for
Orders.

Notes to
Section 11.

by their order for the appointment of managers whose qualifications will be equally unquestionable, and will not unduly limit the field of choice, nor confine the appointment to persons who may not easily be able to attend the meetings; *e.g.* it may be found in a small parish that the qualification required by the existing provision in the trust deed is, that the managers should be subscribers of not less than 20s. per annum, and that in fact it is not possible to secure the constant attendance at meetings of managers who possess this qualification; or it may be found that the qualification of an *ex officio* manager is that he should be the patron of the living, while the patron of the living is in fact non-resident in the parish, and would therefore probably not be able to attend. Many other cases may arise where, as stated in paragraph 17 (c) of the above Memorandum, 'by reason of changes in local or other circumstances the trust deed has become inapplicable for the purposes of the management of the school or a strict adherence to the letter of the deed would defeat its intention.' In such cases it will be for the Board of Education to make an order which will provide for qualifications better applicable for the purpose.

Former
practice in
Voluntary
Schools.

The trust deeds of schools not provided by school boards vary to a considerable extent, but they commonly provide for the conveyance of the site and the premises of the school to trustees to be held upon trusts for the education of poor persons, and to be managed in accordance with the tenets of the denomination to which the school is attached by a committee of management appointed in accordance with the provisions of the deed. In the case of schools in union with the National Society, which includes the large majority of schools connected with the Church of England, it is commonly provided (either by the trust deed or by the terms of union, which by §24 (5) will be included in the term 'trust deed' in cases where they regulate the management of the school) that 'the committee of management shall consist of the minister for the time being of the parish, his licensed curate or curates, if the minister shall appoint him or them, of the churchwardens of the parish, being members of the Established Church, and of other persons, being members of the Established Church and subscribers of not less than some named sum annually to the funds of the school.' *

* The following were the Terms of Union with the National Society in use after the year 1812:—

'That this Society itself being instituted principally for Educating the Poor in the doctrine and discipline of the Established Church according to the excellent Liturgy and Catechism provided for that purpose, it is required that all the Children received into these Schools be instructed in this Liturgy and Catechism, and that in conformity with the directions in that Liturgy, the Children of each school do constantly attend Divine Service in their Parish Church, or other place of public worship under the Establishment, wherever the same is practicable, on the Lord's Day; unless such reason for their non-attendance be assigned as shall be satisfactory to the persons having the direction of that school; and that no religious tracts be admitted into any school but such as are, or shall be contained in the catalogue of the Society for Promoting Christian Knowledge.'

The following were the Terms of Union commonly in use after the year 1839:—

'We, the undersigned, being desirous that the school at (or to be established at) should be united to the National Society, declare that

'1. The Children are to be instructed in the Holy Scriptures, and in the Liturgy and Catechism of the Established Church.

'2. With respect to such instruction, the Schools are to be subject to the superintendence of the Parochial Clergyman.

'3. The Children are to be regularly assembled for the purpose of attending Divine Service in the Parish Church, or other place of worship under the Establishment, unless such reason be assigned for their non-attendance as is satisfactory to the Managers of the Schools.

³ In making an order, the Board of Education are by this sub-section to have regard to the ownership of the school building, which will include the nature of the trusts on which the building is owned, and to the principles on which the education given in the school has been conducted in the past. In the ordinary case of a conveyance under the School Sites Acts for the purposes of religious education the ownership of the building is, in itself, a direct indication of the principles on which it was intended that the education given in the school should be conducted, and where the purpose specified in the conveyance includes any provisions as to the denominational nature of the religion to be taught, the order may properly provide for the appointment of managers belonging to that denomination. The term 'principles on which the education given in the school has been conducted in the past' may be compared with the words used in §19 (2) of the Endowed Schools Act, 1869, namely, 'required by the express terms of the original instrument of the foundation, or of the statutes or regulations made . . . to learn or to be instructed according to the doctrines or formularies of any particular church, sect, or denomination.' It will be seen that the words used in this Act are of very much wider application than those used in the Endowed Schools Act, and give to the Board of Education a practically unlimited discretion, both as to the length of time during which the education has been conducted on the principles in question, the exactitude of the definition of these principles, the evidence which will be required to establish them, and the effect which is to be given to the conclusion at which they may arrive as to how far these principles are to be represented in the provisions for the appointment of foundation managers. In cases where the education in a school without any deed or instrument of trust has been consistently conducted in the past in accordance with the principles of any particular denomination, it will generally be in accordance with the subsection that all four foundation managers shall be members of that denomination.

Notes to
Section 11.
Considerations in
framing
Order.

The Board of Education have stated that although they would feel difficulty in ignoring the method of election for the appointment of managers when that method is prescribed by the trust deed, they might be willing to authorise the method of co-option alternatively to that of election and in default of there being an adequate number of subscribers.

The form of application states that recommendations may be made by reference to forms adopted by the recognised associations of which copies have been deposited with the Board of Education.

The National Society recommends that a management clause on the lines following, which may be referred to as the National Society's model form, should be applied for :—

The foundation managers under the Education Act, 1902, shall consist of the principal officiating minister of the Ecclesiastical parish or district in which the school is situated, *ex officio*, and three (or such

⁴ 4. The Masters and Mistresses are to be Members of the Church of England.

⁵ 5. The Schools are to be periodically inspected by persons appointed either by the Bishop of the Diocese, the National Society, or the Diocesan Board of Education.

⁶ 6. In case any difference should arise between the Parochial Clergy and the Managers of the Schools with reference to the preceding Rules, respecting the religious instruction of Scholars, or any regulation connected therewith, an appeal is to be made to the Bishop of the Diocese, whose decision is to be final.

Notes to
Section 11.

other number as may be required to make up the number of foundation managers as provided under the Act) other persons, being *bond fide* members of the Church of England, who shall in the first instance be nominated by the persons who are the managers of the school at the time of the application to the Board of Education (or, * *who shall in the first instance be elected by the annual subscribers to the school at the time of the application to the Board of Education or other persons who are entitled under the terms of the school trust deed to vote in the election of or appoint managers*). The persons so nominated (*or elected) shall hold office for three years, and thereafter the non-official foundation managers shall be elected triennially by such of the annual subscribers to the foundation of at least two shillings and sixpence during the two years immediately preceding the election as are *bond fide* members of the Church of England, and such of the contributors to the foundation at any time of not less than five pounds in one sum as are *bond fide* members of the Church of England. Provided that any society which may have contributed to the foundation at any time not less than ten pounds in one sum shall have the right to a vote and may nominate one of its officers or other person to exercise the right of voting in its behalf (or, * *vacancies in the number of the non-official foundation managers shall be filled by nomination on the part of the remaining foundation managers of another person or persons being bond fide a member or members of the Church of England*).

The National Society in their letter covering this form heartily endorse the suggestion made by the Board of Education that the applications should be returned through the voluntary schools associations.

Form of
Interim
Order.

⁴ The following is the form of the interim order made under §11 of the Education Act, 1902.

Whereas application has been made to the Board of Education by the Owners, Trustees, or Managers of the schools specified in the Second Schedule hereto for an Order appointing Foundation Managers of the said schools:

Now the Board of Education do hereby order as follows:—

1. The appointment of foundation managers of each of the schools specified in the Second Schedule hereto shall be made in accordance with the provisions specified in the First Schedule hereto.
2. This Order shall take effect as an Interim Order for the purposes of §11 of the Education Act, 1902, from the appointed day on which Part III. of the said Act comes into operation in the area in which the said schools are situated, and shall continue in force until a further or Final Order is made under that section.
3. If in the case of any of the said schools it is hereafter shown to the satisfaction of the Board of Education that, after the date of the application and before the appointed day, the owner of that school has executed a trust deed within the meaning of the said Act, giving sufficient directions for the appointment of foundation managers, or that the circumstances have otherwise so changed as to render an Order on the application unnecessary, this Order shall not apply, and shall be deemed not to have applied, to that school.

* One of these alternatives to be struck out.

THE FIRST SCHEDULE.

Notes to
Section 11.
—

1. The first foundation managers shall consist of four persons appointed by the persons who at the date of this order are *de facto* managers of the school, that is to say, managers as defined by §3 of the Elementary Education Act, 1870,* provided that, if the principal officiating minister of the ecclesiastical parish or district in which the school is situated is a manager of the school *ex officio*, he shall be one of the said four persons. Any vacancy occurring among the first foundation managers, appointed as aforesaid, shall be filled by the appointment of some person by the remaining foundation managers.
2. Any disputes as to the right of any person to appoint the first foundation managers under the terms of this Order, or to act as one of the first foundation managers *ex officio*, shall be referred to and determined by the Board of Education.

THE SECOND SCHEDULE.

Name of School.

School
Number.

It is provided by subsection (7) that where the receipt by a school, the trustees or managers of a school, of any endowment or other benefit was, at the time of the passing of the Act, dependent on any qualification of the managers, the qualification of the foundation managers only is in case of question to be regarded. The meaning of the subsection appears to be that the fact that the managers appointed by local authorities do not possess the necessary qualification will not disqualify the trustees or the body of managers from receiving the endowment or other benefit. Section 13 provides that, subject to the provision in that section, nothing in the Act shall affect any endowment or the discretion of any trustees in respect thereof, and the whole body of managers will be in the same position as regards their dealings with any endowment or other benefit, excepting in so far as is expressly provided in the Act, as the managers under the previously existing trust deed would have been; but the effect of Schedule III. (7) of this Act is that, notwithstanding any provision in the trust deed, the body of managers have power to comply with the conditions required in the Elementary Education Act, 1870, to be fulfilled in order to obtain a Parliamentary grant, and also have power to fulfil any conditions, perform any duties, and exercise any powers under the Education Act, 1902. The body of managers will therefore have power not only to apply any endowment or other benefit which they may receive in paying those expenses (e.g. under §7 (1) (d) of the Act) which are to be paid out of funds provided by the managers but also to pay over to the local education authority, in accordance with the proviso in §13 (1), such part of any endowment as 'must' be applied for those purposes of a public elementary school for which provision is to be made by the local education

Qualifica-
tions of
Managers.Receipt
of endow-
ments.

* Note.—This definition is as follows:—

'The term "Managers" includes all persons who have the management of any elementary school, whether the legal interest in the school house is or is not vested in them' (p. 196).

Section 12. authority, or, where a part only must be so applied, such amount may be determined in accordance with the proviso in §13 (1) to represent that part, and will also have power to make such payment even when the recipient is a county council, which will, pursuant to §13 (2), apply such amount in aid of the rates in the manner therein provided. If after making due provision for all such purposes the body of managers have any surplus available, they will hold such surplus as trustees and they will be bound either to apply it in accordance with the terms of the trust, or if there are no terms applicable, then to apply for an alteration of the scheme of their trust. Such application may now be made to the Board of Education, or successors to the Charity Commissioners, in respect of purely educational endowments, but in such an application the proper course will be to ask the Board to provide in any scheme for the application of the funds for the advancement of learning in the school, so that they should not go in relief of the rates (*see* Poplar and Blackwall Free School, 8 Chancery Division, 543), and to provide that, as far as possible, the application of them should be similar to the application provided in the original trust deed. But as to the decision in the Poplar and Blackwall case, *see* §13 (2), *infra*, and the note thereon.

**Grouping
of schools
under one
manage-
ment.**

12.—(1) The local education authority may group under one body of managers any public elementary schools provided by them, and may also, with the consent of the managers of the schools,² group under one body of managers any such schools not so provided.³

(2) The body of managers of grouped schools shall consist of such number and be appointed in such manner and proportion as, in the case of schools provided by the local education authority, may be determined by that authority, and in the case of schools not so provided, may be agreed upon between the bodies of managers of the schools concerned and the local education authority, or in default of agreement may be determined by the Board of Education.⁴

(3) Where the local education authority are the council of a county, they shall make provision for the due representation of minor local authorities on the bodies of managers of schools grouped under their direction.⁵

(4) Any arrangement for grouping schools not provided by the local education authority shall, unless

previously determined by consent of the parties concerned, remain in force for a period of three years.⁶ Section 12.

¹ It is provided by §6 (3) (a) that, notwithstanding anything in that section, schools may be grouped under one body of managers in manner provided by this Act, and accordingly the local education authority in exercising the power given by this section in respect of schools provided by them will be in no way fettered by the provisions of §6, as to the number of persons of which a body of managers is to consist, nor will the managers and local education authority be fettered in coming to an agreement under this section as to schools not provided by the local education authority. Grouping.

² In the event of an agreement being come to after the appointed day, it will have to be made with the consent of the body of managers appointed under this Act (*see* §11 (6)). It has been suggested that an agreement might be made before the appointed day with the consent of the existing managers for the purpose of bringing the Act into operation on the appointed day (*see* §37 of the Interpretation Act, 1889, p. 156, *infra*), but it is doubtful whether the making of such an agreement would be the exercise of a power necessary or expedient for that purpose within the meaning of the section referred to.

³ This section does not enable schools provided by the local education authority to be grouped with schools not so provided.

⁴ As the consent of the managers of schools not provided by the local education authority is required to grouping, the basis of agreement and of any determination of the Board of Education, in default of agreement, will presumably be that the proportion of foundation managers to managers appointed by the local authorities will, in the absence of special circumstances, be that fixed by the Act, viz. 2 to 1. After the grouping has been effected, it will still be necessary for the bodies of managers of the individual schools included in the group to remain in existence, in order that, at the end of the period for which the grouping arrangement has been made, they may either resume their functions as managers, or consent to an extension of the grouping arrangement. Proportion of managers.

As to the question how far the body of managers of a particular school can exercise any functions of management by virtue of the authority of the body of managers of the group, it will be noticed that the power to appoint sub-committees, which is expressly given to education committees by Schedule I. A (6) (p. 158), is not given by the Act to a body of managers, except so far as may be inferred from the provision in Schedule I. B (1) that a body of managers may regulate their quorum and proceedings in such manner as they think fit.

⁵ Minor local authorities are defined by §24 (2), and that subsection appears to contemplate that where a school serves only one borough or urban district or parish the council thereof should be represented, and that provision for joint appointment should only be made where the school serves the area of more than one minor local authority; and it might therefore be held that, save in such cases, each minor local authority is entitled to separate representation; but the Representation of minor local authorities.

Section 13. representation referred to is not of 'the minor local authorities,' but of 'minor local authorities,' and the words might therefore equally be construed to refer not to each one but to all the minor local authorities included in the group as distinguished from the county council.

Period of grouping.

⁶ There is nothing in the Act which expressly authorises a grouping arrangement for a longer period than three years. Accordingly a binding arrangement for any longer period will only be possible in cases where either there are no trusts or each body of managers has authority according to the provisions of the trusts governing the school to enter into it.

Endowments.

13.—(1) Nothing in this Act shall affect any endowment, or the discretion of any trustees in respect thereof:¹ Provided that, where under the trusts or other provisions affecting any endowment the income thereof must² be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority,³ the whole of the income or the part thereof, as the case may be, shall be paid to that authority, and, in case part only of such income must be so applied and there is no provision under the said trusts or provisions for determining the amount which represents that part, that amount shall be determined, in case of difference between the parties concerned, by the Board of Education; but if a public inquiry⁴ is demanded by the local education authority, the decision of the Board of Education shall not be given until after such an inquiry, of which ten days' previous notice shall be given to the local education authority and to the minor local authority and to the trustees, shall have been first held by the Board of Education at the cost of the local education authority.⁵

(2) Any money arising from an endowment, and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council, shall be credited by the council in aid of the rate levied for the purposes of this Part of this Act in the parish or parishes which in the opinion of the council are served by the school for the purposes of which the sum is paid, or, if the council so direct,

shall be paid to the overseers of the parish or parishes Section 13.
in the proportions directed by the council, and applied
by the overseers in aid of the poor rate levied in the
parish.⁶

¹ In construing this section it must be borne in mind that the governing words are those with which it opens, and that the remainder of the section is a proviso for the purpose of working out those governing words in the altered circumstances arising under this Act. This was very clearly stated by the Lord Chancellor in the House of Lords in relation to a particular endowment which was devoted to the education of children at the village school, and the words used by him afford a canon of construction which may usefully be remembered in interpreting the proviso. The words are (*see* Hansard IV. v. 116. 843), 'That for which the money was given being now supplied by the local education authority the endowment would be transferred to that authority: and so far from this being an abandonment of anything provided by this pious ancestress the local education authority now came in and supplied it. It was really another mode of doing the same thing.' Conversely where the money was given for purposes for which the local education authority are precluded from making provision, they are unable to comply with the condition suggested and are not entitled to the endowment. Discretion of Trustees preserved.

The duty of the body of managers is by §11 (6) to manage the school both for the purposes of the Elementary Education Acts, 1870-1900, and this Act, and so far as respects the management of the school as a public elementary school for the purpose of the trust deed. In so doing, they are bound by all the provisions of the trust deed excepting in so far as they are exempted by Schedule III. (7) of this Act, which provides that they may notwithstanding any provisions in the deed fulfil any conditions, perform any duties, and exercise any powers under this Act required to be fulfilled, performed, or exercised in order to obtain the Parliamentary grant. The conditions which they are thus required to fulfil are those contained in §7, the duties are those imposed upon them by §11 (6) in so far as in managing the school it devolves upon them to comply with §7 of the Elementary Education Act, 1870, and the powers to be exercised by them are those powers which are requisite to enable them to comply with the conditions and duties so imposed.

² It will be noticed that the proviso takes effect only where under the trusts or other provisions the income of the endowment must be applied in whole or in part for those purposes of a public elementary school for which provision is to be made by the local education authority. Extent of application of proviso.

It follows that wherever under the trusts or other provisions affecting the endowment the whole of the income might be applied either in keeping the school house in repair or in making alterations or improvements in the buildings, or in maintaining the school otherwise than as a public elementary school, *e.g.* as a Sunday school or in any other manner even though unconnected with elementary education, the proviso does not come into operation, and the local education authority does not become entitled under the section to any share of

**Notes to
Section 13.**

the income of the endowment. The latter part of the subsection (which provides that in case part only of such income must be so applied, and there is no provision under the said trusts or provisions for determining the amount which represents that part), appears to have reference to cases in which expenditure upon purposes for which provision 'is to be made' by the local education authority is specifically mentioned as payable in an indeterminate proportion out of the income of the endowment in the trusts or other provisions affecting it, as well as expenditure upon purposes for which it is not necessary that the local education authority should make provision.

'Purposes
for which
provision is
to be made.'

³ As to the expression 'those purposes of a public elementary school for which provision is to be made by the local education authority' it may be observed that in the case of a public elementary school provided by the authority the authority must make provision for all the 'purposes' of the school. The form of expression, however, implies a distinction between the purposes mentioned and some other purposes, and such a distinction arises only in the case of a public elementary school not provided by the authority, and in that case arises from the provisions of §7 of the Act. The correct view seems to be therefore that the words mean 'those purposes for which, in a public elementary school not provided by the local education authority, provision is to be made by that authority.'

Must be
purposes of
a voluntary
school.

Further the words appear to have reference to a particular public elementary school. Section 7 of the Act enacts that the local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, and have the control of all expenditure required for that purpose, other than expenditure for which, under the Act, provision is to be made by the managers. The section then enacts that in the case of a school not provided by the authority the managers of the school shall provide the school house, and shall, out of funds provided by them, keep the school house in good repair and make such alterations and improvements in the buildings as may be reasonably required.

Must be
purposes of
a particular
school.

It will be seen, therefore, that the purposes for which provision is to be made by the managers relate, and relate only, to the particular school not provided by the local education authority, and that, therefore, the above-mentioned distinction only arises in relation to a particular public elementary school not so provided.

There is nothing in any other section of the Act which would lead to a different construction of the words 'those purposes of a public elementary school for which provision is to be made by the local education authority,' or would justify these words being construed as being merely descriptive of the purposes of a public elementary school for which the local education authority have to provide independently of any application for the purpose of a particular school.

Limits of
operation of
proviso.

It follows that the proviso will be operative only where the income must be applied for those purposes of a particular public elementary school for which provision is to be made by the local education authority, and will not be operative in cases where the trustees have a discretion to apply the income of the endowment either in the school in which it has been in fact applied or in other

schools, although such income must be applied for salaries or other purposes for which the local education authority has in public elementary schools to provide. It may be noticed that the construction so given to the section leads to more reasonable results than a construction which makes the words 'purposes of a public elementary school' merely descriptive of the purposes and not of the *locus* of application, since the latter construction would involve a right on the part of the local education authority to claim every endowment which must be applied to such purposes, though it was in fact applied to those purposes in a secondary school, or even an university.

Notes to
Section 13.

It would also seem from the use of the words 'shall be paid to *that* authority,' that such a restriction is intended, the reference in the word 'that' being to the particular local education authority which is under an obligation to make provision for the purposes of a particular public elementary school.

⁴ As to public inquiries, see §73 of the Elementary Education Act, 1870 (p. 245). Public Inquiry.

⁵ It is only in cases which fall under the latter part of the subsection that any reference to the Board of Education is expressly suggested by the Act. There will, however, probably also be many cases under the former part in which they will be able to exercise their powers under the Charitable Trusts Acts respecting endowments held solely for educational purposes and if necessary to hold inquiries for that purpose (see pp. 484, 504). In cases where the trustees were directed by their trust in the first instance to make such provision as was required for a particular purpose and then to devote the income to other purposes at their discretion, it will frequently occur that the local education authority, by providing for the particular purpose, will render it no longer incumbent on the trustees to do so. The local education authority on the one hand may then claim that as they provide for the purpose, they should receive the income, while the trustees may claim that, as the local education authority are bound by the Act to provide for the purpose, provision out of the income is no longer required, and that therefore they have a discretion as to the application of the income which prevents the operation of the proviso. In such cases the local education authority, if their claim is well founded, will not be claiming 'adversely to the charity,' but for the due application of the endowment, and the Board of Education will be in a position to exercise the following powers:—

Powers of
the Board of
Education.

1. They will be able to give direction and advice, and trustees acting in accordance therewith will be indemnified. See §16 of the Charitable Trusts Act, 1853.

2. They will be able to prevent legal proceedings being commenced (except by persons claiming adversely to the charity, or by the Attorney-General acting *ex officio*) unless their authorisation has first been given. See Charitable Trusts Act, 1853, §17, p. 461.

3. They will have power, on the application of the parties interested, to authorise a compromise of any claim against the charity or the trustees or administrators thereof. See Charitable Trusts Act, 1853, §23, p. 465, and Charitable Trusts Act, 1855, §31, p. 491.

It may be noted, however, that §5 of the Charitable Trusts Act, 1860, limits the jurisdiction of the Board in any case which, by reason of its contentious character, or of any special questions of law

**Notes to
Section 13.**

or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated upon by any of the judicial courts.

The Board of Education have issued a memorandum calling attention to the above-mentioned powers and have further intimated that, in case of doubt arising under this section, and pending any direction being given, the only safe course for trustees to pursue is to leave in their bankers' hands any moneys not expended by them before the appointed day for §13 to come into operation in their area (*see* §27 (2) and the notes thereon), or received by them on or after that date; and that it is very desirable that in case of doubt the trustees should place themselves in communication with the local education authority which may have an interest in the matter, and that any application should if possible be made jointly by such authority and the trustees.

**Application
in relief of
rates.**

⁶ According to the practice existing before this Act an endowment fund of a school which ceased to be applicable according to the express terms of the instrument of foundation would have been made applicable to purposes which were strictly for the benefit of the school and would not result in the money going in relief of the rates (*In re Poplar and Blackwall Free School*, 8 Ch. Div. 543). The effect of this subsection will be to preclude the application of this rule in respect of money arising from an endowment and paid to a county council for those purposes of a public elementary school for which provision is to be made by the council.

**Limitations
on applica-
tion in relief
of rates.**

The subsection is, however, limited in operation to cases in which the local education authority is the council of a county, and, in such cases, there is a stronger reason than there previously could have been for sanctioning such an application of endowments owing to the change in rating area affected by the Act. *See* note 5 to §18, p. 127. The parish being no longer a separate unit for rating purposes, the principle of the subsection appears to be that some of the special benefit, which is at present enjoyed by the parish in which the endowment is applicable, shall be retained by that parish, and not merged (as it would be, were it not for this provision) in the funds available for the whole area of the county. It might also be argued that the rule itself is not affected, because it applies to cases in which a variation of the trusts is required, while in the cases dealt with in the subsection the money although it arises from an endowment is not a part of the endowment because by virtue of the preceding subsection it has become the money of the county council. If this reasoning is correct the rule would still be applicable in the settling of schemes, and in any case it will presumably still apply on the ground of *expressio unius est exclusio alterius* in respect of payments of money arising from an endowment under §13 (1) to local education authorities other than county councils.

**Income-tax
or endow-
ments.**

Somewhat complicated questions will arise as to the allowances in respect of income tax in respect of endowments which come within the proviso of this section. These allowances are made on two distinct bases, viz. :—(1) on the ground that the premises charged are used for a public educational purpose, (2) on the ground that the rents or profits of the premises or lands belong to a public school or are vested in trustees for charitable purposes so far as they are applied to charitable purposes. In so far as the terms of this section can be said to

be a statutory provision for the application of money arising from the endowment to the purposes of the endowment, the rents or profits will still be applied to the same and therefore to charitable purposes, and the trustees will be entitled to the allowance in respect of income tax by virtue of Schedule A. VI. of the Income Tax Act, 1842, which provides: 'the said last-mentioned allowances to be claimed and proved by any steward, agent, or factor acting for such school . . . or other trust for charitable purposes or by any trustee of the same by affidavit to be taken before any commissioner for executing this Act in the district where such person shall reside.'

Notes to
Section 13.

In answer to a request for information as to the charge for income tax in respect of teachers' residences addressed to them by the secretary of the National Society, the Commissioners of Inland Revenue wrote as follows under date June 28th, 1902 :—

SIR,—In reply to your letter of the 2nd ult., I am directed by the Board of Inland Revenue to acquaint you that elementary schools fall within the exemption from income tax provided in favour of public schools by clause 2 of No. VI. of §61 of 5 & 6 Vict. c. 85, and that any teacher's residence forming part of the school buildings would be included in the exemption unless occupied by a teacher who paid rent for the same or whose total income from all sources exceeded £160 per annum.

Exemptions
from
Income Tax.

If the teacher paid a rent for the residence to the trustees of the school, the latter, as being trustees for a charitable purpose, would be entitled to claim exemption from income tax under clause 4 of No. VI. (*idem*).

When, however, the teacher occupies the residence rent free and his total income exceeds £160 per annum, neither he nor the trustees can claim relief from the income tax charged in respect of the residence.

The trustees cannot claim relief on the ground that the total income of the trust does not exceed £160 per annum inasmuch as the right to claim exemption from income tax on the ground of smallness of income is restricted to individuals and to bodies politic and corporate, and the teacher cannot do so because it has been judicially decided that a person who occupies a residence rent free (unless he has the power of letting it) is not entitled to include the annual value of the residence as a part of his personal income for the purpose of claiming exemption or abatement of income tax.

There is no exemption in the Income Tax Acts applicable to separate residences provided rent free for teachers of elementary schools and not belonging to the public buildings of the school. Such residences would fall under the general rule of Schedule A, and would be chargeable upon the annual value quite irrespective of the amount of the teacher's personal income, unless indeed he had the power of letting the residence and of so converting his interest into money, in which event he would be entitled to include the annual value of the house as an item of his personal income for the purpose of claiming exemption or abatement of the tax in the usual course.

This state of the law, as above described, has given rise in practice to many instances of hardship, and therefore the Board have recently obtained from the Treasury authority to discharge the Schedule A assessment in those cases where a dwelling house belonging to the trustees of a public elementary school is occupied rent free and without the power of letting it by a teacher whose total income exclusive of the annual value of the house does not exceed £160 per annum.

I am to add that instructions have been issued accordingly to the Board's surveyors of taxes throughout the kingdom.

(Signed) T. N. CRAFER,
Secretary.

The Board of Education have stated that, if a common fund applicable to the purposes for which provision is to be made by the managers of voluntary schools is formed by a group of associated schools, contributions may be made to the fund from any endowment whether by way of rent, or otherwise; but that it must be borne in mind that any contribution from endowment is in the nature of a deposit or investment of a trust fund, and could only legally be made on the express understanding that the managers would be entitled to claim an amount from the common fund at least equivalent to the amount so contributed, whenever they may require it for the purposes

Contributions to
general
fund of
associated
schools.

Section 14. of their trust. See the Board of Education's circular referred to in the note to Schedule II. (12), *infra*, p. 170.

Apportionment of school fees.

14. Where before the passing of this Act fees have been charged in any public elementary school not provided by the local education authority,¹ that authority shall, while they continue to allow fees to be charged in respect of that school,² pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers.³

Fee-charging schools.

¹ The fees or other payments in respect of the instruction which may be charged in any school for which the fee grant has been accepted are regulated by the Elementary Education Act, 1891 (*see especially* §§1 to 5 of that Act, and the notes thereon, pp. 317 to 321).

In the year ended the 31st August, 1901, out of a total of 20,116 public elementary schools, the number of such schools in which fees were charged, and the amount received from fees, were as follows:—

Board schools,	153	41,161
Church of England schools,	1,756	121,815
Wesleyan "	307	29,981
Roman Catholic "	113	7,163
British and other "	330	31,161
	<hr/>	<hr/>
	2,659	231,281

A return has been published for the year ended the 31st August 1902, in which the amount received from fees is not given, but the number of schools charging fees is given thus:—Board Schools, 157, Church of England, 1,735, Wesleyan, 305, Roman Catholic, 111, British and other, 316, Total, 2,624.* For some further statistics as to fees in public elementary schools, *see* note 1 to §1 of the Elementary Education Act, 1891.

Right to decide as to fees.

² In all public elementary schools, whether provided or not provided by the local education authority, it will now rest with that authority to decide whether fees should continue to be charged or not, and the Board of Education have stated that, in the case of a school where fees may be charged, the authority can require that they should continue to be charged.

Basis of apportionment.

³ The cases in which the amount received from fees forms a substantial part of the income of a school are, as a rule, cases in which the sanction of the Board of Education has been given to a charge or increase of fees under §4 of the Elementary Education Act, 1891 (p. 320), and in such cases the ground on which the charge or increase has been sanctioned will be one of the factors in the determination of the proportion of the fees which may properly be paid to the managers.

* These figures do not include fifteen schools recognised as higher elementary schools under Article 110 of the Day School Code, p. 592.

The proportion thus paid will be applicable by the managers to those purposes for which they have to make provision under the Act (see §7 (1) (d)). Section 15.

15. The local education authority may maintain as a public elementary school under the provisions of this Act, but shall not be required so to maintain, any Marine school, or any school which is part of, or is held in the premises of, any institution in which children are boarded, but their refusal to maintain such a school shall not render the school incapable of receiving a parliamentary grant, nor shall the school, if not so maintained, be subject to the provisions of this Act as to the appointment of managers, or as to control by the local education authority.¹ Schools attached to institutions.

¹ This section is intended to meet the case of two classes of schools, which are distinguished from ordinary public elementary schools by an important characteristic which they have in common, namely that they are, in their nature, *non-local* schools, and therefore schools for the support of which it would not ordinarily be reasonable that the localities in which they happen to be situate should be rated. Non-local schools.

(i.) Marine schools are schools under the control of the Admiralty, attended by children of marines and Admiralty employés. These schools are inspected by the Board of Education, and they comply with the conditions of the Code, certain special provisions respecting them being contained in Articles 73 and 83. Six of these schools have appeared on the Annual Grant List since 1896, the majority of them being situated in the neighbourhood of naval dockyards.

(ii.) An elementary boarding school is generally an institution, or a part of an institution, supported by some society on philanthropic grounds, for the education of children who may be sent from any part of the country to be boarded as well as educated in the institution. It has been the practice of the Board of Education to admit such schools to annual grants, if it appeared that the conditions of §7 of the Elementary Education Act, 1870 (p. 199), were duly complied with.

The words 'shall not render the school incapable of receiving a parliamentary grant,' imply that the section is confined to schools which are capable of so doing, i.e. to public elementary schools, and if it were not for the provisions of this section, the continued recognition of these two classes of non-local schools as public elementary schools would, in virtue of subsection (1) of §7 of the Act, impose upon the local education authority the duty of maintaining them, and keeping them efficient, so long as they complied with the conditions of that section. The local education authority being

Section 16. thus bound to maintain, it would be unnecessary to give them power to fulfil this duty, and it is only after the duty has been removed by the words 'shall not be required so to maintain,' that it becomes possible to give effect to the words 'may maintain' which have preceded them. These words must therefore be read in connection with the words 'shall not be required to maintain,' not as giving the local education authority any title to maintain the school against the wishes of the managers, but merely as restoring that power to maintain which is implied in an ordinary case from the duty imposed by §7, and might have ceased to be implied after that duty has been removed by the words 'shall not be required.' Similarly, if it were not for the provisions of the present section, the schools referred to would, in virtue of subsection (4) of §7, be incapable of obtaining a parliamentary grant unless maintained by the local education authority under the conditions of that section.

The effect of the section is therefore that the ordinary relations of the local education authority and the managers under the Act are varied as regards these two classes of schools, and that the authority is expressly empowered to maintain any such school in any case where such a course seems desirable; and, in any case in which this is done, the provisions of the Act as to the appointment of managers (§§6 (2) and 11), and as to control by the local education authority (§§5 and 7) will be applicable.

Power to enforce duties under Elementary Education Acts.

33 & 34 Vict. c. 75.

16. If the local education authority fail to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900,¹ or this Act,² or fail to provide such additional public school accommodation within the meaning of the Elementary Education Act, 1870, as is, in the opinion of the Board of Education, necessary in any part of their area, the Board of Education may, after holding a public inquiry,³ make such order as they think necessary or proper for the purpose of compelling the authority to fulfil their duty, and any such order may be enforced by mandamus.⁴

¹ The portions of the Elementary Education Acts, 1870 to 1900, which provided what course was to be pursued when a school board or school attendance committee was in default are repealed by this Act and replaced by the provisions contained in this section.

Duties to be enforced.

² The local education authority by §5 have throughout their area the duties of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and 'any other Acts' including local Acts, and presumably these latter duties, being thus imposed by this Act, are included in the words 'or this Act,' so that the remedy provided by the section would extend to any case of failure to fulfil them. It has been suggested that as the words 'local education authority' in this section mean (*see* note 1 to §5, p. 39)

the local education authority for the purpose of Part III. of the Act, the duties the performance of which may be enforced under the section, are limited to those imposed on the council *quid* such authority and do not include the duties, if any, imposed on the same council by Part II.; but this suggestion is not consistent with the words 'any of their duties . . . under this Act' and accordingly the section is not confined to enforcing the duties under Part III. and under the Elementary Education Acts, and the local Acts mentioned above, but applies also to enforcing any of the duties of the local education authority under this Act arising under Part II. or Part IV. as well as under Part III., and the marginal note is in this respect incomplete and must be disregarded.

³ It will be noticed that no order can be made under this section until a public inquiry shall have been held, but this section does not provide the only remedy available. It is provided by subsection (3) of §7 that one of the conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant shall be that it is maintained under and complies with the provisions of that section, and the effect of this is to enable the Board of Education to put pressure upon the local education authority to comply with all the conditions of §7, by withholding the grants until compliance, so that the more drastic provisions of §16 need only be called into use in respect of duties which are not within §7, or in cases where the withholding of the grants fails to procure compliance.

Power to
withhold
grants.

⁴ The duty which is to be enforced being a duty of a public nature imposed by statute, the writ of mandamus here referred to is presumably the high prerogative writ of mandamus, which is a command issuing in the king's name to any person, corporation, or inferior tribunal to do some particular thing therein specified 'which appertains to their office and duty, and which the court of King's Bench has previously determined or at least supposes to be consonant to right and justice.'

Mandamus.

The principal general rules as to the cases in which the high prerogative writ of mandamus will be granted are set out as follows in Shortt on Mandamus (p. 227):—(1) The applicant must have a legal right to the performance of some duty of a public and not merely private character: (2) There must be no other effective lawful method of enforcing the right (this rule will not preclude the granting of a mandamus where the other remedy is not in its nature so complete): (3) The court must be convinced that the remedy by mandamus will be practically effective to secure the object aimed at: (4) There must have been a demand made upon the person or body on whom the performance of the duty sought to be enforced is incumbent and a neglect and refusal by such person or body to perform it: (5) The application must be to compel the performance of some duty which has not been done; it must not be to order the undoing of an act which has been done; (6) The application must be made in proper time; i.e., it must not have been delayed too long, neither on the other hand must it be made prematurely: and (7) The court must be satisfied as to the propriety of the motives of the applicant.

Application for a writ of mandamus is made in term time to the King's Bench Division by motion for an order *nisi*, and in vacation,

Notes to
Section 16,
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upon its being shown that the matter is urgent, to the judge in chambers for a summons to show cause (Crown Office Rule 60), but the court or a judge may if they or he think fit order that the writ shall be peremptory in the first instance (Rule 67).

The duties imposed upon the local education authority under the Elementary Education Acts, 1870 to 1900, or this Act, being duties of a public nature imposed by statute on a public body, the court would independently of this section have had jurisdiction to compel their performance by mandamus, and will have such jurisdiction in the cases, if any, to which this section does not extend, but the issue of the writ is discretionary, and having regard to the terms of this section the court would probably refuse to entertain any application for the purpose of compelling the local education authority to fulfil any duty imposed upon them by this Act until either the Board of Education shall have made an order for the purpose of compelling the authority to fulfil their duty, or shall have expressly refused to make such an order. Accordingly where any person considers himself aggrieved by any supposed failure on the part of the local education authority to fulfil any of their duties, it will be advisable for him to bring the matter to the notice of the Board of Education, with the view of inducing them to take action under this section, before applying directly to the courts for a mandamus. Further, the Board of Education in making an order after holding a public inquiry will be able not only to order that the local education authority shall fulfil their duty but to 'make' such order as they think necessary or proper for the purpose of 'compelling' them to do so. The effect of these words is to enable the Board of Education to exercise the discretion which the authority have either refused to exercise or have exercised wrongly, and to specify in their order the exact steps which are to be taken. The court will then enforce such order by mandamus, while if an application were made to it independently of this section the court would refuse to do more than order a fulfilment of the duty and would decline to specify the manner in which the duty should be fulfilled.

When the Board of Education make an order under the section it will be for them to see that the order is complied with, and to take such steps as may be necessary for the purpose; if in any case they do not themselves apply for the mandamus, but leave the parties interested to do so, it will be necessary (Crown Office Rule 76) that some person shall depone on oath that the motion for a writ is made on his behalf.

PART IV.

Section 17.
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GENERAL.

17.—(1) Any council having powers under this Act shall establish an education committee or education committees, constituted in accordance with a scheme made by the council and approved by the Board of Education :¹ Provided that if a council having powers under Part II. only of this Act determine that an education committee is unnecessary in their case, it shall not be obligatory on them to establish such a committee.²

(2) All matters relating to the exercise by the council of their powers under this Act, except the power of raising a rate or borrowing money,³ shall stand referred to the education committee, and the council, before exercising any such powers, shall, unless in their opinion the matter is urgent, receive and consider the report of the education committee with respect to the matter in question. The council may also delegate to the education committee, with or without any restrictions or conditions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3) Every such scheme shall provide⁴—

(a) for the appointment by the council of at least a majority of the committee, and the persons so appointed shall be persons who are members of the council, unless, in the case of a county, the council shall otherwise determine ;

(b) for the appointment by the council, on the nomination or recommendation, where it appears desirable,⁵ of other bodies (including associations of voluntary schools),⁶ of persons of experience in education, and of persons acquainted with the needs of the

Section 17.

various kinds of schools in the area for which the council acts ;

(c) for the inclusion of women as well as men among the members of the committee ;⁷

(d) for the appointment, if desirable, of members of school boards existing at the time of the passing of this Act as members of the first committee.

(4) Any person shall be disqualified for being a member of an education committee, who, by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the education committee,⁸ but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.⁹

(5) Any such scheme may, for all or any purposes of this Act, provide for the constitution of a separate education committee for any area within a county, or for a joint education committee for any area formed by a combination of counties, boroughs, or urban districts, or of parts thereof.¹⁰ In the case of any such joint committee, it shall suffice that a majority of the members are appointed by the councils of any of the counties, boroughs, or districts out of which or parts of which the area is formed.

(6) Before approving a scheme, the Board of Education shall take such measures as may appear expedient for the purpose of giving publicity¹¹ to the provisions of the proposed scheme, and, before approving any scheme which provides for the appointment of more than one education committee, shall satisfy themselves that due regard is paid to the importance of the general co-ordination of all forms of education.¹²

(7) If a scheme under this section has not been made by a council and approved by the Board of Education within twelve months after the passing

of this Act, that Board may, subject to the provisions Section 17.
of this Act, make a provisional order for the purposes
for which a scheme might have been made.¹⁸

(8) Any scheme for establishing an education committee of the council of any county or county borough in Wales or of the county of Monmouth or county borough of Newport shall provide that the county governing body constituted under the Welsh Intermediate Education Act, 1889, for any such county or county borough shall cease to exist, and shall make such provision as appears necessary or expedient for the transfer of the powers, duties, property, and liabilities of any such body to the local education authority under this Act, and for making the provisions of this section applicable to the exercise by the local education authority of the powers so transferred.¹⁴

¹ The duty imposed upon a council by this section is to frame a scheme, and to obtain the approval of the Board of Education to the scheme either as framed or with such alterations as are required by the Board of Education to be made in it before they approve it, or, if this has not been accomplished before 18th December 1903, to accept such scheme as the Board of Education may make by provisional order, and to establish an education committee or education committees constituted in accordance with such scheme. The section having imposed certain conditions as to the provisions which may (subsection (5)), and the provisions which shall (subsection (3)), be included in the scheme, it will be the duty of the Board of Education, before signifying their approval of any scheme, to see that due consideration has been given to the provisions referred to in subsections (5) and (6), and that the scheme does include the provisions referred to in subsection (3), and where this has not been done after the twelve months referred to in subsection (7) shall have expired it will rest with the Board of Education to make the necessary provision for the purpose by means of a provisional order.

The Act throws on the Board of Education the duty of fixing the appointed day for each council if such day is to be later than the 26th March 1903 (*see* §27 (2) and the notes thereon), and on and after the 26th March 1903 or other day so fixed it will be the duty of any local education authority to maintain and keep efficient all public elementary schools within their area which are necessary, and if they fail to fulfil this duty the Board of Education may compel the performance of it by proceeding under §16 and making such order as they think necessary or proper for the purpose, to be enforced by mandamus. The Act appears to contemplate (compare the reference to twelve months in subsection (7) and to eighteen months in §27 (2)) that, as

52 & 53
Vict. c. 40.

Scheme
establishing
education
committee.

Notes to Section 17. a rule, the education committee of any council shall be constituted before the appointed day for that council.

Councils with powers under Part II. only.

² Councils having powers under Part II. only of this Act are : the council of any non-county borough with a population not over ten thousand, and the council of an urban district with a population not over twenty thousand. As the exercise of the powers given to them under Part II. is optional, the necessity which may exist for the prompt establishment of an education committee by a local education authority does not exist in their case, and it will be open to such councils on or after the appointed day to determine that an education committee is unnecessary, thus avoiding the necessity of framing a scheme.

The provisions of §56 of the Local Government Act, 1894, which enable the council of an urban district to appoint committees consisting either wholly or partly of members of the council do not apply to the council of a borough, while the Technical Instruction Act which gave such a power has been repealed. Accordingly if a borough council desire that matters relating to the exercise of powers under Part II. should be referred to a committee some of whom are not members of the council, they should establish a scheme for that purpose. A committee appointed under the Public Libraries Act, 1892, or a body of managers appointed to administer the grants made to secondary day or evening schools may include persons who are not members of the council, and might in default of a scheme perform many of the functions of a committee.

³ Subsection (2) provides for two things, viz. (i.) the standing reference to the education committee, (ii.) the delegation of powers to that committee. The former is compulsory, comprehensive, and permanent, the latter is optional and may be limited both in extent and in duration.

Delegation of powers.

The Board of Education have stated that they are advised that a council have full power of delegation under §17 (2) of the Act (without any provision to that effect being included in the scheme for the establishment of the education committee), and that any delegation effected under that section is revocable ;* and they have expressed their opinion that delegation should not be effected by means of a provision included in the scheme, which would be irrevocable, except by means of a new scheme (*see* §21 (3), *infra*).

The power of raising a rate (§18) or borrowing money (§19) is reserved to the council, but the framing of the estimates of the expenditure required, whether such expenditure be on income or capital account, will stand referred to the education committee, together with all other matters relating to the exercise by the council of their powers under this Act. The effect of the standing reference

* *See* *Huth v. Clark* (25 Q. B. D. 891). In that case the executive committee of a county council delegated to local sub-committees its powers under the Contagious Diseases (Animals) Acts and subsequently without expressly revoking the delegation issued regulations under the Rabies Order, 1887, no regulations under that order having been issued by the local sub-committee. The Court held that the delegation did not imply a parting with powers, but pointed rather to the conferring of an authority to do things which otherwise the person delegating would have to do for himself, and that the delegated authority was subject to resumption at any time and that the order was therefore valid. In the case of a delegation to an education committee, however, the standing reference would involve notice to the committee before the authority could be thus resumed.

and of any delegation of powers to the Education Committee raises questions of some difficulty as to which the recent decisions are collected in the footnote.*

As to the proceedings of the committee, see Schedule I. (A.)

From Schedule III. (3) it appears that the Act contemplates the appointment of a sub-committee for school attendance purposes, but none the less the proceedings taken to enforce school attendance will be taken by the council. It will therefore be advisable that no justice who is a member of a local education authority, should sit to

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Section 17.

* In the case of *Barnsley Local Board v. Sedgwick* (L. R. 2 Q. B. 185), notices had been sent by the clerk to the board pursuant to a resolution of a committee appointed under §36 of the Public Health Act, 1848, which provided that the acts of the committee should be submitted to the board for their approval. Section 149 of the same Act provided that whenever any approval of the board was required by the Act, it should be in writing under their seal and the hands of five members. The board having afterwards passed a resolution approving the minutes of the committee containing the resolution, it was held that the sending of the notices was the act of the board itself and not the act of the committee, and that therefore the approval did not need to be authenticated as required by §149. *Blackburn J.* in this case expressly left open the question, whether the streets committee could have lawfully taken upon themselves to do the acts themselves subject to the approval of the board, but this question was raised and decided in the case of *Firth v. Staines* (1897, 2 Q. B. 70). In that case a committee appointed by a vestry under §58 of the Metropolis Management Act, 1855, which provides that the acts of every such committee shall be submitted to the general body of the vestry for their approval, directed the sanitary inspector to serve a notice upon the owner of premises, requiring him to abate a nuisance, and in default to take proceedings. The inspector served the notice, and upon failure to comply laid an information, and a summons was issued, and after the issue of the summons and before the hearing of the information, the vestry approved the acts of the committee. It was held that the approval of the vestry, although given after the service of the notice and the issue of the summons, was sufficient and that the owner was liable to be convicted. Per *Wright J.* (at p. 75), 'To constitute a valid ratification three conditions must be satisfied: first the agent must have purported to act for the principal: secondly, at the time the act was done, the agent must have had a competent principal, and thirdly, at the time of the ratification the principal must be legally capable of doing the act himself.' When, however, the act in question requires to be under seal, it is necessary either that the ratification or the appointment of the committee shall be under seal. Thus in the case of *Mayor, etc. of Oxford v. Crow* (1893, 3 Ch. 535) a committee appointed under §22 of the Municipal Corp. Act, 1882, which provides that the acts of every such committee shall be submitted to the council, accepted an offer from the defendant to surrender a lease of buildings belonging to the corporation on certain terms. The council approved this acceptance, but not under seal, and after such approval the defendant withdrew his offer, and it was held that the contract not having been under the seal of the corporation, nor signed on their behalf by any one authorised under seal to do so, nor ratified under seal nor part performed, could not be enforced. (See also *Lawford v. Billerica Rural District Council*, 19 T. L. R., p. 322.) As to the personal liability of the members of a committee which enters into any contract, it was decided in the case of *Leicester Waterworks Company v. Nuttall* (4 Q. B. D. 18), that when in an appeal against a poor rate, the assessment committee for and on behalf of the Guardians had entered into an agreement to refer, neither the committee nor the members personally could be made liable on the agreement, and *Stephen J.*, following this decision, held in the case of *Eaton v. Basker* (6 Q. B. D. 301), that when a sanitary committee agreed with a medical man to attend patients at 5s. 3d. per tent per day the members were not personally liable, even though the amount at stake which exceeded £50 could not be recovered from the urban authority because there was no contract under seal. In the Court of Appeal, however, where it was held that the contract need not be under seal because at the time of entering into it the parties did not contemplate that it would exceed that sum, *Bramwell L. J.* said that, 'if the plaintiff had failed against the corporation possibly he might have had some remedy against the committee men for representing that they were invested with an authority which they did not in fact possess.' With regard to the legal effect, which a reference to a committee authorised by statute may have, it may be noticed that §202 of the Public Health Act, 1875, which provides for the formation of parochial committees by rural authorities, expressly enacts that the appointment of such committee shall not relieve the authority from any obligation imposed on it by Act of Parliament or otherwise, and thereby seems to imply that but for these words the appointment of such committee might relieve the authority from liability in respect of acts done by the committee within the scope of the powers delegated to them.

Effect of
delegation.

Notes to Section 17. hear any proceedings which were authorised at a meeting of the council at which he was present, or by a committee or sub-committee of which he is a member.*

**Memo-
randum of
Board of
Education.**

* The Board of Education have issued (January 1903) a memorandum containing the following recommendations as to the framing of schemes under this section :—

IV.—The Scheme of Establishment.

**Necessary
provisions
of scheme.**

Necessary provisions.

- (1) There must be a majority on the committee of members of the council, unless the council of the county otherwise determine.
- (2) The council must appoint :
 - (a) persons of experience in education.
 - (b) persons acquainted with the needs of the various kinds of schools within the area.

These may be obtained :—

- (a) By selection by the council from among its own members, or from outside, or ;
- (b) By nomination or recommendation of other bodies where it appears desirable.

- (3) There must be at least one woman on the committee.†

Optional provisions.

- (a) Among the bodies who may be invited to nominate or

* The objection which exists against a justice hearing proceedings in such circumstances, may be stated in two ways : (1) that where a person has taken part in the initiation of proceedings he ought not to sit as a judge, on the ground that no one should be prosecutor and judge in the same cause ; (2) that public policy requires that in order that there should be no doubt about the purity of the administration of justice any person who takes part in such administration should not be in such a position that he might be suspected of being biased (*Allinson v. General Medical Council*, 1894, 1 Q. B. 750).

Whether such an objection arises in a particular case can only be decided when all the circumstances are known, but it should be noticed that the provisions of §258 of the Public Health Act, 1875, which enacts that a justice shall not be deemed incapable of acting by reason of his being a member of a local authority or by reason of his being as one of several ratepayers liable to contribute to or be benefited by a fund or rate, are confined to cases arising under that Act ; and even where the case does arise under that Act it has been decided that a justice who is a member and was present at the meeting of the sanitary committee at which proceedings for exposing for sale meat unfit for human food were resolved on is thereby disqualified from sitting as a justice at the hearing (*R. v. Lee*, 9 Q. B. D. 394). On similar grounds it has been decided that a justice who had been present as a member though he took no prominent part in the proceedings at a meeting of conservators of a fishery district where proceedings were authorised under the Salmon Fisheries Acts was disqualified notwithstanding the provisions of §61 of the Salmon Fisheries Act, 1865, which provides that no justice of the peace shall be disqualified from hearing any case under those Acts, by reason of his being a conservator (*R. v. Henley*, 1892, 1 Q. B. 504). So also an objection was upheld in the case of *R. v. Millidge* (4 Q. B. D. 832), where two justices who were present were members of the town council which authorised the proceedings, and in *R. v. Gibbon* (6 Q. B. D. 168) where the justices who proposed to hear the case were in no way disqualified, but the summons had been issued by a justice who was a member of a corporation on an information laid on behalf of the corporation. On the other hand this last decision was disapproved in *R. v. Handsley* (8 Q. B. D. 883), where the court held that in cases where such a section as §258 (*supra*) applies it is necessary to show a substantial interest or likelihood of real bias to sustain the objection ; and even where there was no such section applicable it was held in the case of *R. v. Burton* (1897, 2 Q. B. 468), that a magistrate who was a practising solicitor and an ordinary member of the Incorporated Law Society was not precluded from sitting and adjudicating on proceedings taken by the council of that society, as ordinary members had no control over the proceedings, and he was not disqualified either as having a pecuniary interest in the proceedings or as being a prosecutor.

† See note 7 to §17 (3) (c) *infra*

recommend are included associations of voluntary schools. Notes to
Section 17.
§17 (3) (b).

- (b) Among the persons whom it may be desirable to appoint as members of the first committee are the members of school boards existing at the time of the passing of the Act.
- (c) A separate education committee may be established for all or any purposes for any area within a county; or separate education committees may be established, for the whole or any part of a county, to deal with special departments of work. The latter mode of distribution is guarded by the provisions of §17 (6).
- (d) A joint committee may be formed for all or any purposes by a combination of counties, boroughs, or urban districts.

In the case of such a joint committee it is necessary that a majority of the members should be *appointed* by the councils of the counties, boroughs or districts concerned; it does not appear necessary that a majority should be *members* of those councils.

(The formation of such committees may be convenient in the case of boroughs or urban districts which may not desire to relinquish permanently their powers under the Act, but may, nevertheless, desire to work in close co-operation with the county in which they are situated.)

V.—Nomination or recommendation of other bodies.

It is probable that the representation of certain educational interests within the area of a council may be effected most satisfactorily by the nomination of a member of the committee by some society within the area or representative of some educational interest within the area.

This course may save the council some trouble in selection, and may also be most satisfactory to the society which is to be represented. In other cases it might be more convenient that a society should be invited to recommend a representative, or to recommend certain persons from among whom the council might choose a representative.

In the case of nomination it must be assumed that the council places itself in the hands of the body whom it invites to nominate.

In the case of recommendation, suggestions might be made on both sides with a view to the choice of some one acceptable to the council and representative of the interest concerned.

In each case the appointment is made by the council, but either method would ensure that the person appointed was considered to be really representative by the interest concerned.

VI.—Duties of the Board of Education in respect of schemes.

- (1) To give publicity to the provisions of the proposed scheme. §17 (6).
- (2) To hold an inquiry if necessary. §23 (10).
- (3) To be satisfied that where the scheme provides for more than one committee due regard is paid to the importance of co-ordinating all forms of education. See §17 (6).

It would not be desirable to perpetuate the severance of

Notes to
Section 17.

elementary from higher education by the creation of separate committees for each. But it may often be convenient to establish sub-committees which might, under the supervision of the education committee, administer the various forms of education.

- (4) In the event of a scheme not having been made, or not having been approved within twelve months after the passing of the Act, to make a provisional order for the purposes of a scheme.

(A ground on which the Board might be asked to withhold its approval of a scheme would be the non-representation or inadequate representation of some of the educational interests within the area. An educational body or association might complain—

- (a) That the interests with which it was concerned were wholly unrepresented; (b) That the person chosen to represent it was not really representative; (c) That no security was afforded by the scheme for the continuance of its representation.

Points such as these should be carefully considered in framing a scheme.)

VII.—Further powers of County Council.

Delegation to the council of any borough, district or parish, on conditions to be agreed upon, of the powers of *management* which it possesses in respect of any school or college within the area of such borough, district or parish.

Acquisition—by arrangement and with the approval of the Board of Education—of the powers of a borough or urban district which is a local education authority under the Act, and which may relinquish to the county its powers under Part II. or Part III., or both.

IX.—Draft scheme.

Among the more important matters for which a draft scheme should provide are the following:—

1. The number of the proposed committee.
2. How many are required to be members of the council.
3. The educational interests which it is proposed should be represented.
4. How it is proposed to secure their representation—by selection, recommendation or nomination.
5. What security is provided for the permanence of such representation.
6. What provision is made for the appointment of women.
7. If more committees than one—are they constituted for separate areas or for separate administrative duties—their proposed numbers and composition—the number, duties and composition of sub-committees.
8. The term of office of members of the committee, and the arrangements for retirement and the filling of vacancies, occurring casually or at stated times.

The Board of Education have also issued (9th February 1903) a further memorandum (*see* p. 142) on the points as to which provision should, or should not, be included in a scheme for the constitution of an

education committee. See the note to §21 (2), *infra*, which provides that any scheme or provisional order under this Act may contain such incidental or consequential provisions as may appear necessary or expedient. Notes to Section 17.

⁵ It has been suggested that the words 'where it appears desirable' relate solely to the view taken by the local education authority in framing the scheme and that therefore notwithstanding the imperative nature of this subsection the local education authority have sole discretion as to whether they will or will not provide for the appointment 'on the nomination or recommendation of other bodies' of persons of experience in education, and of persons acquainted with the needs of schools in the area: but this limitation is inconsistent with the provision that the scheme has to be approved by the Board of Education who must therefore also be entitled to consider whether it appears desirable that the scheme should provide for appointments being so made. Nomination, etc., by outside bodies.

⁶ These words include any association of voluntary schools although they are generally taken to refer to the associations of voluntary schools constituted under the permissive powers of §1 (3) of the Voluntary Schools Act, 1897. That subsection provided that if associations of schools were constituted in such manner in such areas and with such governing bodies representative of the managers as were approved by the Education Department, there should be allotted to each association while so approved a certain share or shares of the aid grant payable under §1 (1) of the Act, computed in the manner stated in the subsection (p. 706). The whole of §1 of the Voluntary Schools Act is now repealed as from the appointed day (*see* notes to §10, *supra*, and to Schedule II. (12), *infra*) but the associations constituted under the section are not expressly dissolved, and their continued existence is recognised in Schedule II. (12.) By §38 (2) (b) and (c) of the Interpretation Act, 1889, it is provided that where an Act passed after 1889 repeals any other enactment, then unless the contrary intention appears the repeal shall not affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed, or affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed. It will be noticed that it is the allotment in §1 (3) of the Voluntary Schools Act to the association and not the existence of the association which is limited by the words 'while so approved,' and presumably where the approval of the Education Department was given without any limit of time the association will continue to exist notwithstanding the repeal of the section which authorised such approval. The limitation of the right of an association to receive an allotment of aid grant to the time while it is so approved will be replaced by the provision in Schedule II. (12) that the Board of Education may if they think fit pay any share of the aid grant to the governing body if such body satisfy them that proper arrangements have been made for the application of any sum so paid. If the arrangements so made with the approval of the Board of Education are of a permanent nature (*e.g.* for the investment of the sum so paid and the application of the interest arising from it to assisting in the repairs to be done by managers of voluntary schools) there seems no reason why the Associations of Voluntary Schools.

**Notes to
Section 17.**

existence of the association making the arrangement should not be equally permanent. See further as to this Schedule II. (12) and the notes thereon, p. 169 to 172.

Women.

⁷ The words being, 'every such scheme shall provide for the 'inclusion of women,' each particular scheme in order to comply with these words must provide for the inclusion of women, and a scheme which provides for the inclusion of more than one woman will therefore be more in accordance with the letter of the Act than a scheme which provides for the inclusion of one woman. It has, however, been thought possible to construe the word 'women' generically, and it may be inferred from IV. (3) of the above Memorandum issued by the Board of Education (*see* p. 112), that they will not be prepared to disapprove of a scheme on the sole ground that it does not provide for the inclusion of more than one woman.

**Disqualifica-
tions.**

⁸ The effect of this subsection (exclusive of the words from 'but 'no such disqualification' to the end of the subsection) is that certain specified disqualifications for membership of the council disqualify for membership of the committee. These disqualifications are those depending on the words 'by reason of holding an office or 'place of profit, or having any share or interest in a contract or 'employment.' Other disqualifications for membership of the council (such as—in a borough—being an elective auditor, or being in holy orders or the regular minister of a dissenting congregation) do not disqualify for membership of the committee.

The enactments regulating disqualification for membership of the council on the grounds specified are as follows:—

**Disquali-
fication in
borough.**

(I) In the case of a borough (including a county borough) the Municipal Corporations Act, 1882, §12, provides—

(1) A person shall be disqualified for being elected and for being a councillor, if and while he—

(a) . . . holds any office or place of profit, other than that of mayor or sheriff, in the gift or disposal of the council; or

(c) Has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the council:*

* In the Municipal Corporations Act, 1885, the corresponding words were 'no person is 'qualified to be elected a councillor during such time as he has any share or interest in any 'contract or employment by, with, or on behalf of the council,' and it was held in *R. v. Francis* (21 L. J., Q. B., 804), that the disqualification attached although the contract in question was not under seal so that the council could not have been sued upon it; but it was held in *Le Feuvre v. Lankester* (28 L. J., Q. B., 254) that the mere fact that a person who had entered into a contract with the council bought from a councillor in the ordinary course of trade articles required for the works included in the contract did not give rise to the disqualification. In the Commissioners Clauses Act, 1847, the corresponding words were 'any person who at any time after his appointment or election shall be concerned or partici- 'pate in any manner in any contract or in the profit thereof, or of any work to be done under 'the authority of the Act, shall thenceforth cease to be a commissioner', and it was held that when a bill was produced, made out, and receipted by the defendant and addressed to the commissioners for lime purporting to have been supplied at four different times, there was evidence to go to the jury that the defendant was concerned in a contract (*Nicholson v. Fields*, 81 L. J., Exch., 233). This case was distinguished from an earlier case of *Woolley v. Kay* (25 L. J., Exch., 851), on the ground that the dealing in that case, although it related to the sale of a plot of land, might have been regarded by the Court as a mere casual dealing like going to a shop and paying for an article over the counter, and therefore as not being a contract for furnishing, supplying, or selling, which were the words of the statute to which that case related. However, in *West v. Andrews* (5 B. and Ald., 328), when the words of the statute were similar, the act of the defendant, who had whilst overseer supplied four sheep for the support of the poor, was held to be within both the letter and the spirit of the Act of Parliament.

In *Cox v. Ambrose* (60 L. J., Q. B., 114), the respondent was a member of a firm

(2) But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in— Notes to Section 17.

- (a) Any lease,* sale, or purchase of land, or any agreement for the same; or
- (b) Any agreement for the loan of money, or any security for the payment of money only; or
- (c) Any newspaper in which any advertisement relating to the affairs of the borough or council is inserted; or
- (d) Any company which contracts with the council for lighting or supplying with water or insuring against fire any part of the borough; or
- (e) Any railway company, or any company incorporated by Act of Parliament or Royal charter, or under the Companies Act, 1862.

It is to be noticed that although the interests mentioned in sub-section (2) of §12 of the Municipal Corporations Act, 1882, do not disqualify for membership of the council, it is provided by §22 (3) of the same Act that a member of the council shall not vote or take part in the discussion of any matter before the council, or a committee, in which he has directly or indirectly, by himself or by his partner, any pecuniary interest. Prohibition against voting.

It does not appear that the last-mentioned disability is imposed upon any member of the committee who is not a member of the council. Thus a teacher voting on the committee for an increase in his own salary would not seem to be acting contrary to any express enactment.

(II) In the case of a county—

The Local Government Act, 1888, by §§2 and 75 makes the above quoted provisions of the Municipal Corporations Act, 1882, including the provisions of §22 (3), applicable to the case of a county council. Disqualification in counties.

NOTE.—Section 2 (2) expressly provides that clerks in holy orders and other ministers of religion shall not be disqualified for being elected and being aldermen and councillors.

(III) In the case of an urban district other than a borough, the Local Government Act, 1894, §46, provides— Disqualification in urban districts.

- (1) A person shall be disqualified for being elected or being a member or chairman . . . of a council of a . . . district other than a borough . . . if he—

(d) holds any paid office under the . . . district council . . .

interested in certain contracts with a corporation of a borough which had not expired at the time of the election. Before offering himself as a candidate he dissolved partnership and assigned all his interest in the contracts to the other partner, but the corporation gave no assent to such assignment, nor did they release the respondent from the contracts nor from the bonds securing the due performance of them, and it was held that he was therefore not qualified to be elected. The decision in *Ford v. Newth* (1901, 1 Q. B., 688) was to the same effect. In that case the respondent in answer to an advertisement had offered to supply certain goods for twelve months at specified prices, and his offer was accepted. He then applied to a committee of the council to be released, and the committee resolved that subject to the approval of the council he should be released from that date. He was then nominated and the council afterwards confirmed the resolution. The Court held that the ratification did not date back to the date of the resolution because the interests of persons other than the parties to the contract might be affected, and that therefore the respondent was disqualified.

* It was held in *Nell v. Longbottom* (1894, 1 Q. B., 767) that this word referred as much to a letting for one day as to a lease for a longer period.

Notes to
Section 17.

- (e) is concerned in any bargain or contract* entered into with the council . . . or participates in the profit of any such bargain or contract or of any work done under the authority of the council . . .
- (2) Provided that a person shall not be disqualified for being elected or being a member or chairman of any such council . . . by reason of being interested—
- (a) in the sale or lease of any lands or in any loan of money to the council . . . or in any contract with the council for the supply from land, of which he is owner or occupier, of stone, gravel, or other materials for making or repairing highways or bridges, or in the transport of materials for the repair of roads or bridges in his own immediate neighbourhood; or
- (b) in any newspaper in which any advertisement relating to the affairs of the council . . . is inserted; or
- (c) in any contract with the council . . . as a shareholder in any joint stock company; but he shall not vote at any meeting of the council . . . on any question in which such company are interested, except that in the case of a water company or other company established for the carrying on of works of a like public nature, this prohibition may be dispensed with by the county council.

[NOTE.—The parts of the section omitted from the foregoing extract relate either (1) to parish councils or boards of guardians, or (2) to disqualifications unconnected with 'holding an office or place of profit, or having any 'share or interest in a contract or employment.']

Temporary
exemption.

It will, no doubt, happen in some cases that an existing member of a council will have involved himself in an engagement of a contract, bargain, or employment with some school board, which engagement

* The words 'concerned in any bargain or contract' replace the words 'in any manner concerned in any bargain or contract' which were used in Schedule II, rule 64 of the Public Health Act, 1875. In the case of *Nutton v. Wilson* (22 Q. B. D., 744) the defendant, a member of a local board, was employed by persons with whom the board had contracted for the performance of certain works on the premises of the board, to do portions of the works so contracted for, and it was held by A. L. Smith, J., following *Tomkins v. Jolliffe* (51 J. P., 247) that, although he had not himself entered into any contract with the board, he had been concerned in contracts entered into by the board within the meaning of that rule and was therefore disqualified, and this decision was confirmed by the Court of Appeal, Lord Esher, M.R., saying that these provisions were intended to prevent the members of local boards from being exposed to temptation, or even the semblance of temptation. See also as to the effect of similar words in a Turnpike Act, *Towsey v. White*, 5 B. and C., 125.

This decision was followed in the case of *Barnacle v. Clark* (1900, 1 Q. B., 279), in which case the respondent, a member of a school board, sold sand and gravel to a builder who had entered into a contract with the board for the building of a school, knowing that it was to be used, as in fact it was used, for such building, and it was held that he had been guilty of an offence under §34 of the Elementary Education Act, 1870 (see p. 230).

The rule referred to in the Schedule to the Public Health Act provided that any member who was so concerned should cease to be a member, and it was held in the case of *Fletcher v. Hudson* (7 Q. B. D., 611) that a person who had become disqualified within the meaning of the rule was disabled from acting, even after the termination of the contract in which he was concerned, until re-election. The provision that the member should cease to be a member is now replaced by §46 (7) of the Local Government Act, 1894, that the council shall declare the office vacant and signify the same as therein provided, and that the office shall thereupon become vacant, while (8) provides that if such person acts when disqualified he shall be liable for each offence to a fine not exceeding £20. It seems, therefore, that if the council does not declare the office vacant the disqualification will continue only during the continuance of the contract (cf. *Lewis v. Carr*, 1 Ex. D., 484).

The words 'concerned or interested' occur also in §193 of the Public Health Act, 1875, which provides that officers employed by the local authority shall not in any wise be concerned or interested in any bargain or contract made with the authority. It was held in *Todd v. Robinson* (14 Q. B. D., 739) that an officer who held shares in a company having a contract with the authority was 'interested in a contract,' and in *Whiteley v. Barley* (21 Q. B. D., 154) it was held that a surveyor who was by the terms of the contract with the authority to receive from the contractors certain percentages on the amounts in respect of bills of quantities to be prepared by him was 'concerned or interested' in such contract.

will now be transferred to the council. Such a transfer will operate to disqualify the member concerned for continued membership of the council, but the date at which this disqualification shall take effect may, under Schedule II. (9), be postponed, within the limit of time there specified, by express resolution of the council. This postponement will have the effect of postponing the disqualification for membership of the education committee of the person concerned.

Notes to
Section 17.

It will, however, be observed that this exemption of an existing member of a council from immediate disqualification does not apply so as to enable a person other than a member of the council involved in such an engagement to be appointed a member of the education committee.

⁹ A paid teacher in any school provided by a local education authority is under the foregoing enactments disqualified for being a member of that authority, and a corresponding disqualification is attached by §23 (7) (p. 151) to teachers in a school maintained but not provided by the local education authority.

But no such
disqualifica-
tion, etc.

The last words of the subsection, however ('but no such disqualification, etc.'), take effect to enable teachers in a school or college aided or maintained by any council, whether provided by the council or not, to be members of the education committee of that council, as distinguished from the council itself.

The question has been raised whether, in view of this express proviso, it is competent for a local education authority to include in their scheme a clause providing that no person engaged as a teacher in any school or college in their area aided, or capable of being aided, by the authority shall be eligible for membership of the education committee. The proviso in question removes the disqualification which would otherwise, in virtue of the principal sentence of the subsection, attach to teachers, but the proviso does not appear to remove any power which the council may have to provide in the scheme for the exclusion from the committee of any persons by reason of their belonging to a certain class, as distinguished from their power to exclude them by reason of their holding office in a school or college aided, provided, or maintained by the council.

As to the qualification of members of an education committee to vote in respect of questions arising before the committee without being subject to the restrictions of subsection (3) of §23, see the note to that subsection, p. 149.

¹⁰ No power is given by subsection (5) to include in a scheme any provisions for the proportion of contributions to be paid in respect of the different parts of the area for which a joint education committee is established similar to those which might be included in agreements under §52 of the Elementary Education Act, 1870: but that section in so far as it enables such agreements to be made between two or more local education authorities relating to public elementary schools in their districts is still in force, and is only repealed in so far as it relates to the provisions of that Act with respect to the appointment of a body of managers. The provisions of that section will therefore enable the formation, under a combination agreement, of a joint committee to which the powers in relation to public elementary schools of the councils entering into the agreement could be dele-

Joint
Committee.

**Notes to
Section 17.**

**Publication
of county
scheme.**

gated, and the scheme framed under §17 (5) of the Education Act, 1902, might provide that the committee so formed should further be capable of being empowered to deal with all matters relating to higher education, subject to the exceptions mentioned in subsection (2). See further, as to agreements for combination, note 5 to §18, *infra*, p. 130.

¹¹ As soon as the Board of Education are prepared to give publicity to the provisions of a scheme proposed by a county council, they request the council to carry out the following procedure:—

(1) To affix a copy of the notice of the making and publication of the scheme to or near a principal outer door of the offices of the council, and to allow it to remain so affixed for thirty days from the date of the notice.

(2) To deposit a copy of the scheme on the same date for gratuitous public inspection at the offices of the council during the period allowed for objections.

(3) To forward a copy of the notice and copies of the scheme to each post office in the area of the council, to every borough council, urban district council, rural district council, parish council, and, where no parish council, to the parish meeting, in the county, and to the Board of Education.

(4) To insert the notice twice in each of two local newspapers of different political views, and of general circulation in the area.

The form of notice states that a scheme for establishing and constituting an education committee has been submitted for approval to the Board of Education, that any objections or suggestions respecting the scheme may be made to the Board in writing within 30 days from the date of the notice, and that copies of the scheme may be inspected free of cost, on each week-day during the said period, between the hours of 10 A.M. and 4 P.M., at the offices of the council at the place named in the notice, and at the office of the Board at Whitehall, and can also be obtained free of cost at any post office in the area of the council. The Board of Education state that it is essential that the date inserted in the notice should be the date on which the notices are actually issued.

The Board require the council, at the end of the period of publication, to forward a copy of each newspaper in which the advertisement was inserted, together with a declaration of compliance with the remainder of the above-mentioned procedure.

The Board further state that, in addition to publication as above, it would be desirable, where possible, that the council should arrange to have a copy of the notice exhibited at church and chapel doors throughout the area of the council, in accordance with old-established custom, and at the police stations.

The same procedure, *mutatis mutandis*, is required in the case of publication of schemes made by the council of a county borough, non-county borough, or urban district, except that in boroughs a period of twenty-one days only instead of thirty is prescribed.

**Publication
of borough
or urban
district
scheme.**

**Security for
co-ordina-
tion.**

**Provisional
order
instead
of scheme,**

¹² With regard to the security for the 'general co-ordination of all forms of education,' see paragraph IV. (3) (c), and paragraph VI. (3) of the Memorandum of the Board of Education, from which extracts are given in note 4, *supra*.

¹³ With regard to the making of a provisional order for the

purposes for which a scheme might have been made, *see* §21, *infra*, Notes to Section 17. and the notes thereon.

¹⁴ The text of the Welsh Intermediate Education Act, 1889, with notes, is given on pp. 447 to 455. Welsh
County
Governing
Bodies.

By §1 of the Act it was provided that the Act should, so far as was consistent with the tenour thereof, be construed as one with the Endowed Schools Acts, and might be cited together with those Acts as the Endowed Schools Acts, 1869 to 1889.

An authoritative statement on the origin and working of this Act was contributed by the Charity Commissioners to Volume II. of the Special Reports on Educational Subjects, issued by the Education Department in 1898.

Under the Welsh Act there has for the last few years been in operation, throughout Wales and Monmouthshire, an organised system of public secondary education, supported by local rates, a Treasury grant (not exceeding the amount raised from rates), the 'residue grant' (p. 354), endowments, and voluntary contributions. Certain central powers, including powers of inspection and examination, were given to a body constituted for the purpose, called the Central Welsh Board for Intermediate Education (*see* note 4 to §3 of the Welsh Act, p. 449), but the principal part of the educational and financial administration of the system has been in the hands of the 'county governing bodies' which were constituted, one for each county and county borough, by schemes made by or through the Charity Commissioners under the Endowed Schools Acts, 1869 to 1889, and approved by the Queen in Council, subject to the reservation of certain functions of local administration to 'local governing bodies' constituted by the same schemes.

The Charity Commissioners point out in the above-mentioned statement that the passing of the Welsh Intermediate Education Act was considerably facilitated by the establishment of county and county borough councils under the Local Government Act, 1888, and that the possibility of the successful working of the Act was largely due to the power specially given to these councils in Wales and Monmouthshire by the Local Taxation (Customs and Excise) Act, 1890, to apply the 'residue grant' to the purposes of the Welsh Intermediate Education Act (*see* §1 (4) of the Local Taxation Act, p. 355).

The views of the county councils were taken into consideration in the making of the schemes which constituted the county governing bodies, and in all but three cases a majority of the county governing body was appointed by the county council; but after the scheme had been duly approved the county governing body was, within the limits of the scheme, independent of the county council, even as regards financial control, and the power to call for the levy of a rate. On the other hand the Act did not authorise the levy of a rate exceeding one halfpenny in the pound, and outside the limits of the Act and scheme, the county governing body had no authority to supply or aid the supply of higher education, and the county council had independent control of the funds available for this purpose under the Technical Instruction Acts and of the 'residue grant,' so far as the latter had not been included in the scheme, subject nevertheless to the restrictions imposed by the Technical Instruction Act, 1889, respecting the penny limit to the rate, and the kind of higher education (technical or manual) which might be aided.

**Notes to
Section 17.**

Section 17 (8) of the Education Act, 1902, under which the scheme for establishing an education committee must provide that the county governing body shall cease to exist, and shall make provision for their powers, duties, property, and liabilities, being transferred to the county council, will remove the existing divided system of control (except so far as regards the functions of the Central Welsh Board and of the 'local governing bodies'), together with all the above-mentioned limitations of powers, whether of the county governing body or of the county council.

**Powers
under Welsh
Intermediate
Education
Act.**

It is to be noted that the Welsh Intermediate Education Act is not repealed, and the powers and duties formerly possessed by the county governing bodies will not be abolished, but will be transferred to the local education authorities. One effect of this will be that the council of a county may raise, besides the rate of a halfpenny in the pound which they are authorised and required to raise for the purposes of the Welsh Intermediate Education Act, a further rate of twopence in the pound for the purposes of higher education, before they are required, in the event of their wishing to raise a still higher rate, to obtain the sanction thereto of the Local Government Board. Further, it appears that the exemption from the necessity of submitting their expenditure to audit by the district auditor, which has hitherto been enjoyed by the county governing bodies is continued to the county councils, so far as expenditure defrayed out of the funds included in the schemes made under the Welsh Act is concerned. It is also to be noted that the transfer of the 'duties' of the county governing bodies will have the effect of making the schemes made under the Welsh Act, as amended from time to time by schemes made by the Charity Commissioners (and now by the Board of Education), obligatory upon the county councils, so far as such provisions are applicable under the new conditions created by the Education Act.

The Board of Education have recommended that in the scheme for any Welsh county or county borough council there should be inserted, after the sentence providing for the transfer to the council of the powers of the governing body, the following clause:—

All matters relating to the exercise of the powers so transferred shall stand referred to the committee in like manner as if they were matters relating to the exercise by the council of their powers under the Act, and subject to the provisions of the Act the council may delegate to the committee with or without restrictions or conditions, any of the powers so transferred in like manner as if they were powers of the council under the Act.

The necessity for this clause appears to be based on the view that the powers transferred to the council from the governing body are not powers under the Education Act, and that therefore, without such a clause, they would not come within the provisions of subsection (2) of §17. The insertion of this clause in the scheme does not commit the council to delegate the powers in question to their education committee, it merely enables them so to delegate, if they see fit; it is therefore not inconsistent with the view of the Board of Education (note 3 to this section, *supra*) that delegation of powers should not be effected by means of a provision included in the scheme.

18.—(1) The expenses of a council under this Act section 18. shall, so far as not otherwise provided for, be paid, Expenses. in the case of the council of a county out of the county fund,¹ and in the case of the council of a borough out of the borough fund or rate,² or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate,³ and in the case of the council of an urban district other than a borough in manner provided by section thirty-three of the Elementary Education Act, 1876,⁴ as respects the expenses 39 & 40
Vict. c. 79. mentioned in that section :⁵ Provided that—

- (a) the county council may, if they think fit (after giving reasonable notice to the overseers of the parish or parishes concerned), charge any expenses incurred by them under this Act with respect to education other than elementary on any parish or parishes which, in the opinion of the council, are served by the school or college in connexion with which the expenses have been incurred ;⁶ and
- (b) the county council shall not raise any sum on account of their expenses under Part III. of this Act within any borough or urban district the council of which is the local education authority for the purposes of that Part ; and
- (c) the county council shall charge such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred by them in respect of capital expenditure or rent on account of the provision or improvement of any public elementary school on the parish or parishes which, in the opinion of the council, are served by the school ; and

Section 18.

(d) the county council shall raise such portion as they think fit, not being less than one-half or more than three-fourths, of any expenses incurred to meet the liabilities on account of loans or rent of any school board transferred to them, exclusively within the area which formed the school district in respect of which the liability was incurred, so far as it is within their area.⁷

(2) All receipts in respect of any school maintained by a local education authority, including any parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, shall be paid to that authority.⁸

(3) Separate accounts shall be kept by the council of a borough of their receipts and expenditure under this Act, and those accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a county council, and the enactments relating to the audit of those accounts and to all matters incidental thereto and consequential thereon, including the penal provisions, shall apply⁹ in lieu of the provisions of the Municipal Corporations Act, 1882, relating to accounts and audit.

^{45 & 46}
Vict. c. 50.

(4) Where under any local Act the expenses incurred in any borough for the purposes of the Elementary Education Acts, 1870 to 1900, are payable out of some fund or rate other than the borough fund or rate, the expenses of the council of that borough under this Act shall be payable out of that fund or rate instead of out of the borough fund or rate.

(5) Where any receipts or payments of money under this Act are entrusted by the local education authority to any education committee established

under this Act, or to the managers of any public elementary school, the accounts of those receipts and payments shall be accounts of the local education authority, but the auditor of those accounts shall have the same powers with respect to managers as he would have if the managers were officers of the local education authority.¹⁰

Section 18.

¹ With regard to the funds of a county council, §68 of the Local Government Act, 1888, provides as follows:—

'County
Fund.'
Funds of
County
Council.

- (1) All receipts of the county council, whether for general or special county purposes, shall be carried to the county fund, and all payments for general or special county purposes shall be made in the first instance out of that fund.
- (2) In this Act the expression 'general county purposes' means all purposes declared by this or any other Act to be general county purposes, and all purposes for contributions to which the county council are for the time being authorised by law to assess the whole area of their administrative county, and the expression 'general county account' means the account of the county fund to which the contributions so raised are carried, and any costs incurred for a general county purpose shall be general expenses, and all costs incurred by the county council in the execution of their duties which are not by law made special expenses shall be general expenses.
- (3) In this Act the expression 'special county purposes' means any purposes from contribution to which any portion of the county is for the time being exempt, and also includes any purposes where the expenditure involved is by law restricted to a hundred, division, or other limited part of the county, and the expression 'special county account' means any account of the county fund to which contributions for special county purposes are carried, and any costs incurred for a special county purpose shall be special expenses.
- (4) If the moneys standing to the general county account of the county fund are insufficient to meet the expenditure for general county purposes, county contributions may be levied to meet the deficiency on the whole administrative county, and shall be assessed on all the parishes in the county.
- (5) If the moneys standing to any special county account of the county fund are insufficient to meet the expenditure for the special county purposes chargeable to that account, county contributions may be levied to meet the deficiency on any parishes in the county liable to be assessed to county contributions for those purposes.
- (6) Any precept for county contributions may include as separate items a contribution for general county purposes,

**Notes to
Section 18.**

and a contribution for any special county purpose or purposes, and subject as in this or any other Act mentioned, county contributions, whether for general or special county purposes, which are liable to be assessed on the parishes, shall be assessed on such parishes in proportion to the annual value thereof, as determined by the standard or basis for the county rate, and all enactments applying to such standard or basis or to county rate shall (save as altered by this Act) apply so far as may be, consistently with the tenour thereof, to county contributions, and those enactments shall extend to all parishes within any borough which are liable under this Act to be assessed to county contributions.

- (7) The county council shall keep such accounts as will prevent the whole administrative county from being charged with expenditure properly payable by a portion only of the county, and will prevent any sums raised in a portion only of the county being applied in reduction of expenditure properly payable by the whole or a larger part of the county, and will further secure any such exemption as above in this section mentioned, and will prevent any sums by law specifically applicable to any particular purpose from being applied to any other purpose.
- (8) In determining the amount of expenditure for any particular county purpose, general or special, a proper proportion of the cost of the officers and buildings and establishment of the county council may be added to the expenditure directly expended for that purpose.
- (9) County contributions may be made retrospective in order to raise money for the payment of costs incurred, or having become payable at any time within six months before the demand of the contributions.

With regard to the making up and audit of the accounts of a county council, *see* note 6, *infra*.

**Borough
Fund.**

² It is provided by §139 of the Municipal Corporations Act, 1882, that the rents and profits of all corporate land, and the interest, dividends, and annual proceeds of all money, dues, chattels, and valuable securities belonging or payable to a municipal corporation, or to any member or officer thereof in his corporate capacity, and every fine or penalty for any offence against this Act (except where and as far as the application thereof is otherwise provided for) shall go to the borough fund. It is further provided by §144 of the same Act that—

**Borough
Rate.**

- (1) if the borough fund is insufficient for the purposes to which it is applicable under this Act or otherwise by law, the council shall from time to time estimate, as correctly as may be, what amount, in addition to the borough fund, will be sufficient for those purposes.
- (2) In order to raise that amount, the council shall, subject to the provisions of this Act, from time to time order a rate, called a borough rate, to be made in the borough.
- (3) A borough rate may be made retrospectively in order to raise

money for the payment of charges and expenses which have been incurred or which have come in course of payment at any time within six months before the making of the rate. Notes to Section 18.

³ The object of these words is to meet certain exceptional cases where no borough rate has been levied, the borough fund having, up to the present time, been sufficient to meet the purposes to which it is applicable.

For an exception to the general rule here laid down as to the fund or rate out of which the expenses of a borough council under this Act are to be paid, *see* subsection (4).

⁴ Section 33 of the Elementary Education Act, 1876, will be found on p. 298. Fund in urban district.

The provisions of the section which are made applicable for the purposes of the present Act are :—

The expenses (if any) of a school attendance committee appointed by an urban sanitary authority shall be paid out of a fund to be raised out of the poor rate of the parish or parishes comprised in the district of such authority, according to the rateable value of each parish, and the urban sanitary authority shall, for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor, and the accounts of such expenses shall be audited as the accounts of other expenses of the sanitary authority.

The effect of the adoption of these provisions is to prevent the rate which is to be raised in urban districts other than boroughs for the purposes of elementary education from being subject to the special deductions in regard to railways, canals, and so forth, to which the sanitary rate is and the poor rate is not liable.

⁵ No change is made by the Education Act, 1902, in the rating area for the purposes of higher education as compared with the rating area under the Technical Instruction Acts, but a permissive power, similar to that under §4 (3) of the Technical Instruction Act, 1889, is given to county councils to raise a rate for these purposes over a limited portion of their area. Rating area for higher education.

With regard to the rating area for elementary education, the Elementary Education Act, 1870, provided that for the purposes of that Act the 'school district' should be one of the school districts described in the First Schedule to the Act. The districts so described were the metropolis, boroughs (except Oxford, and by a later Act, Wenlock), district of the local board of Oxford, and parishes not included in any of the above-mentioned districts. Special provision was also made by the Act for divided parishes, for parishes partly within and partly without a borough, and for united school districts (consisting of two or more adjoining school districts, the metropolis being expressly excluded from the possibility of such union); and in certain cases school districts not falling under any of the above descriptions have been constituted by Orders made under the Local Government Act, 1888, or the Local Government Act, 1894, or by the operation of the last-mentioned Act, or by local Acts. All the instances, however, of these special Rating area for elementary education.

**Notes to
Section 18.**

cases combined formed but a small proportion of the total number of 'school districts' in England and Wales (the case of the united school district being the most numerous and important), and broadly speaking the unit of rating area for the purposes of the Elementary Education Acts has been either a parish or a borough. The rating area for the purposes of elementary education, under the Education Act, 1902, will henceforth be one of the four following areas—

- (1) a county, but exclusive of any of the other three areas;
- (2) a county borough;
- (3) a non-county borough with a population of over 10,000;
- (4) an urban district with a population of over 20,000.

In the majority of the last three cases the rating area will be the same as in the past, in the first case a change of great importance is effected by the Act. In this case the local education authority (the county council) are required by §7 (1) of the Act to maintain and keep efficient all public elementary schools within their area which are necessary, whether provided by themselves or not, and by §18 of the Elementary Education Act, 1870, as modified by Schedule III. (6) of this Act, to provide such additional public school accommodation as is, in the opinion of the Board of Education, necessary in every part of their area.

The fund applicable for the purposes of meeting the expenses which will thus be necessary will be the county fund (*see* note 1, *supra*), and any deficiency will be met by a rate to be levied in every borough, urban district, and parish in the whole of the area of the authority (as above defined), the only exceptions being the cases of those parishes and districts which are mentioned in §18 (1) (c) and (d). These clauses of the subsection provide in effect that expenses in the nature of repayment of capital expenditure, or other expenses properly falling under the head of *provision* as distinct from *maintenance*, whether to be incurred in the future, or already incurred by the school board of whom the local education authority are the successors, are to be met to the extent of from one-half to three-quarters (the proportion within these limits being left to the discretion of the local education authority) by that part of the area for the benefit of which the expenses in question are or were incurred, the balance (one-half to one-fourth, as the local education authority may determine) being met by a charge spread over the whole of the area of the authority.

**Effect of
change in
county
areas.**

The general effect of these provisions, in the area of a local education authority which is a county council, will be in the direction of the equalisation of the incidence of the elementary education rate. The financial differences caused by the change of system will, in the case of any given parish, depend upon a great variety of circumstances, including the numbers of board and voluntary schools in that parish, or in the 'school district' under the Elementary Education Acts of which it formed a part, and the previous cost of administration, maintenance, and 'provision' (capital expenditure and liabilities in respect of loans or rent being included under cost of provision).

The typical extreme cases, and the financial position in them, as regards the cost of the supply of public elementary school accommodation, before and after the change of system, are shown in the following table:—

1. A parish, with no school board, wholly supplied with school accommodation provided and maintained by voluntary effort—

Notes to
Section 12.

Under the Elementary Education Acts, 1870 to 1900.

No compulsory rate, the support of the school as a voluntary school being optional.

Under the Education Act, 1902.

A compulsory rate, being the rate which, when levied in this and in every other parish in the area, will produce for the area as a whole the total sum required from rates in any year for (a) administration, (b) the maintenance of all schools, whether 'provided' or 'not provided,' in the area, (c) the proportion (from $\frac{1}{4}$ to $\frac{1}{2}$, as the county council may determine) of the sum required on account of expenses of 'provision,' incurred by or on behalf of those parishes in the area which are served by schools in respect of which such expenses are incurred.

2. A parish wholly supplied with school accommodation provided and maintained by a school board—

Under the Elementary Education Acts, 1870 to 1900.

A compulsory rate, levied exclusively in this parish, which would produce the sum required in any year (a) for administration, (b) for maintenance of 'provided' schools, (c) on account of expenses of provision of school accommodation by the school board.

Under the Education Act, 1902.

- (i) The compulsory rate, as under 1 above, levied in this as in every other parish in the area.
(ii) A compulsory rate, which will, when levied exclusively in this parish, produce the proportion (from $\frac{1}{4}$ to $\frac{1}{2}$, as the county council may determine) of the sum required in any year on account of expenses of 'provision' incurred by or on behalf of the parish.

Generally speaking, it would seem that the reduction of the elementary education rate in the second case set out above should be greater than the new rate required in the first case, but on the other hand the number of parishes in which the new rate will be required will exceed the number in which there will be a reduction.

These broad general results will, however, be affected in two respects by other provisions of the Act.

Qualifications.

(1) The managers (*see* §6 (2)) of a voluntary school not provided by the local education authority are required, as a condition of the continued maintenance of the school as a public elementary school not provided by the local education authority, by §7 (1) (d) to provide the school house (except the teacher's dwelling-house) free of any charge, to keep it in good repair, and to make, subject to certain conditions, such alterations and improvements as may be reasonably required by the local education authority. No statistics are available for the purpose of estimating with accuracy the burden which this requirement is likely to throw upon the managers, or the relief likely to be thereby afforded to the rates, either for the country as a whole, or for any particular district.

**Notes to
Section 18.**

(2) The abolition of school boards and the provision made by the Act for the maintenance of voluntary schools by the local education authority involve the transfer to the funds of that authority of the grant formerly paid to school boards under the Agricultural Rates Act, 1896, and an alteration of the grants formerly paid under the Voluntary Schools Act, 1897, and the Elementary Education Act, 1897 (pp. 706 and 711). The aid grant (*see* §10) payable in lieu of the two last-mentioned grants will be paid to the local education authority, and, like the grant which the county council will receive under the Agricultural Rates Act as successor of the school boards in its area, will not be applicable to the expenses of any particular district, but will be part of the fund available for meeting the general expenses of the council under Part III. of the Act. The 'pooling' of these grants is in harmony both with the spirit and with the administrative provisions of the Act, but it is on account of this 'pooling' that the area as a whole is made partly liable for the expenses mentioned in clauses (c) and (d) of this subsection, an elastic system of compensation being thus provided for the benefit of those districts where the withdrawal of the special grants would otherwise be most severely felt.

**Cases of
'contribution' or
'combination.'**

Under the Elementary Education Acts, it frequently happened that a school provided by a school board near the boundary of their district was conveniently available for the children of another school district, for whom the school-owning board were under no statutory obligation to make provision. Two means by which the school-owning board could be repaid for its expenses on account of these external children were provided by the Elementary Education Act, 1870, viz.: a 'contribution' under §§49 to 51 (p. 236), or a 'combination' under §52 (p. 237). The procedure in the case of a 'contribution' was of a compulsory character, though it was often adopted with the consent of all parties, and it was applicable whether the external children came from a district for which there was a school board, or from one for which there was no school board. The procedure in the case of a 'combination' was purely voluntary, and was applicable only to those cases in which there was a school board for each of the school districts concerned.

The necessity for the continuance of such provisions is to a great extent removed by the Education Act, 1902. In the first place, the larger area and the smaller number of authorities reduces the possible number of cases in which the children for whom one authority is responsible attend school in the area of another; and in the second place, while the obligation to provide and maintain accommodation for even twenty external children might impose an appreciable burden upon the school board of a small or poor parish, the larger the school-owning district, the less, proportionately, would this burden be felt. The compulsory procedure of §§49 to 51 is therefore abolished by the present Act (*see* Schedule IV.), but the voluntary procedure of 'combination' under §52 is retained to meet such cases as may remain where the number of external children attending the schools of the school-owning authority seems to make some provision for joint expenditure desirable.

In cases in which any order of contribution under §§49 to 51 of

the Act of 1870 has been in force between districts now in the area of the same local education authority, the order will lapse automatically if it provided for contribution for 'maintenance' only; but where it provided for contribution for 'provision,' as well as in all cases (whether for 'maintenance' or 'provision') in which the districts concerned will now be in the areas of different local education authorities, the respective liabilities of the districts concerned may now require adjustment under §68 of the Local Government Act, 1894, which is by Schedule II. (22), p. 177, made applicable with respect to any adjustment required for the purposes of this Act.

Notes to
Section 18.

Section 52 of the Elementary Education Act, 1890, is not repealed, but any agreement under that section between school boards now in the area of the same local education authority will lapse automatically, subject, in cases where expenses of 'provision' are involved, to an adjustment being made under the above-mentioned §68 of the Local Government Act, 1894; but where the agreements have been made between school boards now in the areas of different local education authorities, the agreements will remain in force as between the new authorities, subject again to an adjustment being made, as above mentioned, in any case in which it is required for the purposes of the present Act.

The form which 'combination agreements,' under §52 of the Elementary Education Act, 1870, have usually followed is given in note 2 to §20, *infra*.

In the case of *R. v. Vane* (47 L. T. 21) it was held that where a parish A. was made by an order of the Education Department a contributory district of parish C. where there was a school board, the guardians, who had appointed a school attendance committee which exercised powers in respect of school attendance over certain parishes, including A., were entitled to recover a share of the expenses incurred from that parish, on the ground that it was not under any other local authority within the meaning of the Elementary Education Act, 1876, §32.

⁶ This provision is similar to that contained in §4(3) of the Technical Instruction Act, 1889, the difference being (besides the general difference consisting in the substitution of 'education other than elementary' for 'technical or manual instruction,' and besides the express requirement of reasonable notice to the overseers) that the special charge (if made) is to be made upon a parish or parishes: while under the Technical Instruction Act it was to be made on 'any part' of the county for the requirements of which the expenses under that Act had been incurred.

Special
rating area
for higher
education.

⁷ The words 'so far as it is within their area' are added to meet such cases as that of united school districts, where the parishes included in the district will not all be within the area of the same local education authority under Part III. of the Act. Such cases are partly provided for by the express terms of the Act, and partly by Schedule II. (22), which makes §68 of the Local Government Act, 1888 (which relates to the adjustment either by agreement or arbitration of property and liabilities), applicable to any adjustment required for the purposes of this Act.

It will be observed that the area within which the portion of the expenses mentioned is to be raised is the area which formed the school

**Notes to
Section 18.**

district in respect of which the liability was incurred. This area will not in all cases be the area forming the school district on the appointed day under the Act, and hitherto liable for the expenses mentioned. Thus in the case of a united school district consisting of two or more parishes, it may happen that the only loan which remains unpaid was raised in respect of a parish which did not form part of the united school district at the time when the loan was raised. Since the formation of the united school district the repayment of this loan will have been a charge common to the whole of such district, but the special charge imposed by §18 (1) (d) of the Act will in future be imposed upon the parish in respect of which the loan was raised.

**Acceleration
of payment
of grants.**

⁸ The Board of Education have stated that they are prepared to take the following steps for accelerating the payments of grants, in order to meet financial difficulties that have arisen in the initial stages of the administration of the Education Act :—

1. Practically the whole of the new Aid Grant under §10 of the Act can be paid to the local authority (not merely the 4s.) within a few days, or at the outside, weeks, after the appointed day—the whole or proportionate part, according to the number of months of the financial year that remain after the appointed day, when the appointed day is not April 1st.
2. The Fee Grant in respect of each school to be paid by quarterly instalments as hitherto—except that if it be desired by any authority, the Board may be able in many cases to pay some of the instalments sooner than usual—it being clearly understood that in no case will more money be paid in respect of a school between April 1st, 1903, and March 31st, 1904, than would under ordinary circumstances have been paid out of the Exchequer in respect of that school during that period.
3. As regards the Annual Grant, commonly called the Block Grant, the Board of Education would normally pay it in respect of each school within a few weeks of the close of the school year of each school. But if any authority desires it, the Board would be glad to pay, on the same date as instalments of Fee Grants are paid, instalments of Annual Grants, say, 5s. at a time or otherwise, rather than hold up the whole payment to the end of the school year. This would again put money into the hands of the authorities sooner than would otherwise be the case—but here again it must be clearly understood that no more money will be paid by the Board of Education in respect of any school between April 1st, 1903, and March 31st, 1904, than would under ordinary circumstances have been paid out of the Exchequer in respect of that school during that period.

The Board of Education have stated that it is not intended that instalments of annual grant should be paid in respect of school years beginning after the appointed day; but they have intimated (*see* p. 567) that changes will be made in the arrangements as to the date of payment.

As to the payment of a charge for interest upon sums advanced as temporary loans for the purpose of meeting current expenses, *see* note 1 to §19, *infra*, *ad fin.*

The Board of Education have also stated that population grants (Articles 104 and 105 of the Code, p. 591) will be continued and will be paid to the local education authority, who will be responsible for the maintenance of the schools earning them. Also that the average attendance on which the annual grant is paid will be taken as the basis of calculation of the new aid grant. Notes to Section 18.

For the 'purposes for which provision is to be made by the 'managers,' see note 4 to §7 (1), p. 51.

⁹ Were it not for this provision the expenses of a borough council under this Act would be audited in the manner provided by §27 of the Municipal Corporations Act, 1882, that is to say, by the borough auditors, of whom there are three, two elected by the burgesses, called elective auditors, and one appointed by the mayor, called mayor's auditor. Accounts of borough council and audit.

With regard to the manner in which, and the provisions subject to which, the accounts of a county council are required to be made up and audited, it is provided by §71 of the Local Government Act, 1888 :— Accounts of county council and audit.

- (1) The accounts of the receipts and expenditure of county councils shall be made up to the end of each local financial year as defined by this Act [i.e. the twelve months ending the 31st day of March], and be in the form for the time being prescribed by the Local Government Board.
- (2) The provisions of the Municipal Corporations Act, 1882, with respect to the return to the Local Government Board of the accounts of a council of a borough and to the accounts of the treasurer of the borough, and to the inspection and abstract thereof, shall apply to the accounts of a county council, and of the treasurer and officers of such council, and the said provisions respecting the return to the Local Government Board shall extend to the return to that Board of a printed copy of the abstract of the said accounts.
- (3) The accounts of a county council, and of the county treasurer and officers of such council, shall be audited by the district auditors appointed by the Local Government Board in like manner as accounts of an urban authority and their officers under §§247 and 250 of the Public Health Act, 1875, and those sections and all enactments amending them or applying to audit by district auditors, including the enactments imposing penalties and providing for the recovery of sums, shall apply in like manner as if, so far as they relate to an audit of the accounts of an urban authority and the officers of such authority, they were herein re-enacted with the necessary modifications, and accordingly all ratepayers and owners of property in the county shall have the like rights, and there shall be the same appeal as in the case of such audit. Provided that the First Schedule to the District Auditors Act, 1879, shall be modified in manner described in the Second Schedule to this Act.

The First Schedule to the District Auditors Act, 1879, prescribes

Notes to Section 18. the scale of stamp duties payable on audit by local authorities as follows :—

When the Total of the Expenditure comprised in the Financial Statement is	The Sum shall be
Under £20,	5s.
£20 and under £50,	10s.
£50 and under £100,	£1.
£100 and under £500,	£2.
£500 and under £1,000,	£3.
£1,000 and under £2,500,	£4.
£2,500 and under £5,000,	£5.
£5,000 and under £10,000,	£10.
£10,000 and under £20,000,	£15.
£20,000 and under £50,000,	£20.
£50,000 and under £100,000,	£30.
£100,000 and upwards,	£50.

The modification made in this scale by the Second Schedule to the Local Government Act, 1888, is as follows :—

The following scale shall, until otherwise determined by Parliament, be substituted for so much of the scale set forth in the First Schedule to the District Auditors' Act, 1879, as relates to expenditure amounting to £100,000 and upwards :—

Where the Total of the Expenditure comprised in the Financial Statement is	The Sum shall be
£100,000 and under £150,000	£50.
£150,000 and under £200,000	£60.
£200,000 and upwards	£15 in addition for every £50,000 or part thereof.

Money entrusted to Committee or Managers.

¹⁰ The Public Health Act, 1875, §250, provides that the accounts under that Act of officers of any local authority who are required to receive money or goods on behalf of the authority shall be audited by the auditor of the accounts of such authority, with the same powers, incidents, and consequences as in the case of such last-mentioned accounts. The auditor may therefore (*see* §247) by summons in writing require any manager holding or accountable for any books, accounts, vouchers, receipts, or papers to appear before him at the audit, and may disallow any item of account contrary to law and surcharge the same on the person making or authorising the illegal payment, and may charge against any manager accounting the amount of any deficiency or loss incurred by his negligence or misconduct.

The system under which, prior to the passing of the Education Act, 1902, the managers of voluntary schools themselves accounted

for all receipts and payments without remuneration is now freed from **Section 19.** a possible objection by the above provision, which puts such managers on a par with officers of the authority as regards accountability.

It will be found that considerable discounts are commonly allowed from the catalogue price for material supplied to schools, and that two or even three discounts may sometimes be obtained in respect of the same transaction. Such discounts, whether received by a manager or teacher or other officer, will be a receipt entrusted to them by the local education authority, and in cases where, as sometimes happens, the voucher given includes the amount of the discount, payment should be made direct to the firm by cheque, and care should be taken that the amount debited to the local education authority in respect of the voucher should only be equal to the amount of cash actually paid. Any failure to account for a sum so received might render the recipient liable to prosecution under §1 of the Public Bodies Corrupt Practices Act, 1889, which provides that every person who shall corruptly solicit or receive or agree to receive for himself or any other person, any gift, loan, fee, reward, or advantage whatever, as an inducement to, or reward for, or otherwise on account of any member, officer, or servant of a public body doing or forbearing to do anything in respect of any matter or transaction whatsoever actual or proposed in which the said public body is concerned, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for two years with or without hard labour, and to pay a fine not exceeding £500, and to other additional penalties.

Discounts
are 're-
'ceipts.'

19.—(1) A council may borrow for the purposes of the Elementary Education Acts, 1870 to 1900, or this Act, in the case of a county council as for the purposes of the Local Government Act, 1888, and in the case of the council of a county borough, borough, or urban district as for the purposes of the Public Health Acts, but the money borrowed by a county borough, borough, or urban district council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.¹

Borrow-
ing.

51 & 52
Vict. c. 41.

(2) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough, borough, or urban district for the purpose of the limitation on borrowing under subsections two and three of section two hundred and thirty-four of the Public Health Act, 1875.²

38 & 39
Vict. c. 55.

Notes to
Section 19.

Borrowing.

¹ The purposes of the Elementary Education Acts, 1870 to 1900, for which school boards were empowered, and local education authorities as the successors of school boards are now empowered to borrow, are those specified in §10 of the Elementary Education Act, 1873 (p. 268), which was substituted for the original provision contained in §57 of the Elementary Education Act, 1870. §10 of the first-mentioned Act is repealed by the Education Act, 1902, and, for the purpose of performing their duties or exercising their powers under this Act, county councils are authorised to borrow as for the purposes of the Local Government Act, 1888, and other local education authorities as for the purposes of the Public Health Acts.

§69 of the Local Government Act, 1888, provides as follows:—

- (1) The county council may from time to time, with the consent of the Local Government Board, borrow, on the security of the county fund, and of any revenues of the council, or on either such fund or revenues, or any part of the revenues, such sums as may be required for the following purposes, or any of them, that is to say ;
 - (a) for consolidating the debts of the county ; and
 - (b) for purchasing any land or building any building, which the council are authorised by any Act to purchase or build ; and
 - (c) for any permanent work or other thing which the county council are authorised to execute or do, and the cost of which ought in the opinion of the Local Government Board to be spread over a term of years ; and
 - (d) [as to emigration] . . . and
 - (e) for any purpose for which quarter sessions or the county council are authorised by any Act to borrow,

but neither the transfer of powers by this Act nor anything else in this Act shall confer on the county council any power to borrow without the consent above mentioned, and that consent shall dispense with the necessity of obtaining any other consent which may be required by the Acts relating to such borrowing, and the Local Government Board, before giving their consent, shall take into consideration any representation made by any ratepayer or owner of property rated to the county fund.

- (5) A loan under this section shall be repaid within such period, not exceeding thirty years, as the county council, with the consent of the Local Government Board, determine in each case.

The corresponding provisions of the Public Health Act, 1875 (which are made applicable to borrowing by local education authorities other than county councils), are similar to the above, but the maximum period allowable for the repayment of the loan is sixty instead of thirty years.

The maximum period under the Elementary Education Acts was fifty years.

The fund or rate on the security of which the borrowing under

this Act is to be effected is the fund or rate mentioned in §18 (1), or, **Section 20.** where applicable, §18 (4).

It was decided in the Court of Appeal in the case of *R. v. Reed* ^{Temporary loans.} that a school board had not any power either express or implied to borrow for the purpose of meeting their current expenses, and that the auditor was therefore right in disallowing a charge for interest upon sums advanced as temporary loans for that purpose. The proper course is to estimate the sum necessary to meet future expenses and to raise the requisite amount by a rate, and in the event of any unforeseen emergency necessitating borrowing, any difficulty or injustice resulting from the interest being disallowed or surcharged must be met by an application to the Local Government Board to remit the sum disallowed or surcharged (L. R. 5 Q. B. D., 483). It has, however, been officially intimated that having regard to the initial financial difficulties arising in the administration of the Act (see note 8 to §18, p. 132), the Local Government Board are prepared to entertain applications for their sanction to loans for the purpose of meeting those difficulties.

² The following are the provisions referred to:—

The Local Government Act, 1888, §69 (2)—Provided that where the total debt of the county council, after deducting the amount of any sinking fund, exceeds, or if the proposed loan is borrowed will exceed, the amount of one tenth of the annual rateable value of the rateable property in the county, ascertained according to the standard or basis for the county rate, the amount shall not be borrowed, except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament. ^{Exemptions from limitations on borrowing.}

The Public Health Act, 1875, §234 (2)—The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district, in respect of which such money may be borrowed:

(3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their inspectors has held a local inquiry and reported to the said Board.

In addition to the exemption from the limitation on borrowing given by this subsection, Schedule II. (3) provides that any loans transferred to a council under this Act shall, for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act.

20.—An authority¹ having powers under this Act—

(a) may make arrangements with the council of any county, borough, district, or parish, whether a local education authority or not, for the exercise by the council, on such ^{Arrangements between councils.}

Section 20.

terms and subject to such conditions as may be agreed on, of any powers of the authority in respect of the management of any school² or college³ within the area of the council; and

- (b) if the authority is the council of a non-county borough or urban district may, at any time after the passing of this Act, by agreement with the council of the county, and with the approval of the Board of Education, relinquish⁴ in favour of the council of the county any of their powers and duties under this Act, and in that case the powers and duties of the authority so relinquished shall cease, and the area of the authority, if the powers and duties relinquished include powers as to elementary education, shall, as respects those powers, be part of the area of the county council.⁵

Authority having powers under this Act.

¹ The expression 'authority having powers under this Act' includes the council of any county, of any borough (whether a county borough or not), and of any urban district. It further includes any parish council, or where there is no parish council any parish meeting, which is a minor local authority within the meaning of §24 (2). Any such authority may therefore make arrangements with the council of any county, borough, district, or parish for the exercise by that council of any of its own powers in respect of the management of any school or college within the area of the council. Any delegation of powers made by such an arrangement may be either from the more important body to the less important, or *vice versa*, or from one body to another of the same standing under the Act as itself.

A rural district council is not an authority having powers under this Act, but the council of any 'district' will include a rural district council, which may therefore enter into arrangements with any such authority in respect of the management of any school or college within the area of the rural district council.

Powers in respect of management.

² The words 'any powers in respect of the management of any 'school' would include the power of the authority to appoint managers or a manager of the school, but would probably not be held to include the power which is given to the county council by §24 (2) to make such provision as they think proper for joint appointment of managers by minor local authorities whose areas are served by the same school, since to hold that such power was included might have the effect of making the council of the area where the school was situated the judge of what share in the appointment it was proper for them to enjoy.

The powers which are so to be exercised are only those in respect of the management, and consequently it does not appear that this section would justify an authority in binding itself to any arrangement involving financial obligations. When, however, two local education authorities having the powers of school boards desire to enter into an arrangement involving financial obligations, it will be open to them to do so under §52 of the Elementary Education Act, 1870, and, by the assistance of this subsection and of §17 (5), *supra*, to make any additional arrangements in respect of management which may be desirable. The ordinary form of combination agreement under §52 of the Elementary Education Act, 1870, is as follows:—

Notes to
Section 20.

WHEREAS the aforesaid school boards (hereinafter called the said school boards) have severally passed resolutions whereby they have undertaken to be bound by the agreement hereinafter set forth. Form of combination agreement.

AND WHEREAS the Board of Education have sanctioned the proposed combination. Now in pursuance of the said resolutions, and in accordance with the said sanction, the said school boards do hereby agree as follows, that is to say:—

1. The said school boards shall be combined for the purpose of providing, maintaining, and keeping efficient *school accommodation, hereinafter called the said school accommodation, as follows* :—
2. The said school boards shall act together in combination in carrying out the provisions of this agreement by means of a committee, which shall always consist of members appointed by the school board of and members appointed by the school board of . Each member of the said committee shall hold office during the pleasure of the school board by whom he shall have been appointed. Provided, however, that no vacancy or vacancies upon the said committee shall prevent the other members thereof (if they constitute a quorum of the said committee) acting as if such vacancy or vacancies did not exist.
3. The said committee shall meet for the despatch of business, and at every such meeting the members present shall act as if they were members of a single school board. The majority present at any such meeting shall exercise, within the scope of this agreement, any of the powers or do any of the acts which may be exercised or done by either of the said school boards acting separately, including particularly any of the powers specified in §§15, 18, and 19 of the Elementary Education Act, 1870.
4. The said committee shall from time to time make such regulations (with respect to the summoning, notice, place, management, and adjournment of its meetings, and generally with respect to the transaction and management of business, including the appointment of a chairman and other officers, and the quorum at its meetings, as the said committee shall think fit, provided that the quorum shall not consist of less than three persons.
5. *The said school accommodation shall be deemed to be provided by the school board of* but to be common to the districts of the said school boards. The expenditure incurred in providing, maintaining, and keeping efficient *the said school accommodation shall be borne by the school fund of the school board of*
6. (a) The school board of shall, immediately after the execution of this agreement, pay to the treasurer of the school board of for the school fund of such last-mentioned board the sum of £
- (b) The school board of shall, from time to time, as required by the aforesaid committee, pay to the said treasurer for the said school fund the $\frac{n}{n}$ the part of so much of the aforesaid expenditure as must be defrayed out of the rates.
- (c) If any question shall arise as to whether a particular item is to be regarded as included in the aforesaid expenditure, it shall be referred to the Board of Education, whose decision shall be final.
7. If at any time one of the said school boards shall serve upon the other of the said school boards a notice in writing, expressing a desire to dissolve this combination, then, at such time, not less than six months after the service of such notice as may be specified in such notice in that behalf, or if no such time is so specified, at such time after the service of such notice as may be determined by the Board of Education, this combination shall be dissolved, subject, nevertheless, to such terms as may be approved by the Board of Education, and each of the said school boards shall thereupon pay to such person, and in such manner as may be appointed by the Board of Education, so much money as the Board of Education may adjudge to be reasonably due on an adjustment of the accounts and property of the said school boards.

In witness whereof, etc.

Section 21.

It will be observed, however, that local education authorities will only possess the powers of combination under §52 of the Act of 1870, as the successors of school boards, and it will therefore not be open to them to combine under this section for any purpose except as regards elementary education (i.e. for the purpose of Part III. of the Act).

³ 'College' is defined in §24 (4) as including, in this Act, any educational institution whether residential or not, and consequently this subsection gives the widest possible power to an authority to delegate their powers in respect of the management of educational institutions to any council within whose area such institution is situated.

Relinquish-
ment of
powers.

⁴ The relinquishment under this subsection is final.

The powers and duties which may be relinquished by the council of a non-county borough or urban district will always include powers and duties under Part II. of the Act (higher education), and, in cases where the council is a local education authority for the purpose of Part III., they will include powers and duties in respect of elementary education. The subsection appears to contemplate that, in cases of partial relinquishment, the relinquishment will be either of all the council's powers and duties under Part II. of the Act, or of all their powers and duties under Part III. There is, however, in the subsection no express prohibition of a relinquishment by the council of some only of their powers and duties under Part II., or under Part III., and, in cases in which a partial relinquishment of powers under Part III. is made, it would seem that as respects the powers so relinquished the area of the relinquishing council will be part of the area of the county council. The relinquishing council will still however, in such a case, be a local education authority, and therefore, having regard to the provisions of §18 (1) (b), it does not seem clear that the county council could raise any sum on account of their expenses under Part III. of the Act, in respect of their exercise of the powers so relinquished, in the area of the relinquishing council.

⁵ It is provided by Schedule II. (2) (p. 164), that where, under the provisions of this Act, any council relinquishes its powers and duties in favour of a county council, any property or rights acquired and any liabilities incurred for the purpose of the performance of their powers and duties with respect to education, shall be transferred to the county council.

Pro-
visional
orders and
schemes.
38 & 39
Vict. c. 55.

21.—(1) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to provisional orders), shall apply to any provisional order made under this Act as if it were made under that Act, but references to a local authority shall be construed as references to the authority to whom the order relates, and

references to the Local Government Board shall be Section 21. construed as references to the Board of Education.¹

(2) Any scheme or provisional order under this Act may contain such incidental or consequential provisions as may appear necessary or expedient.²

(3) A scheme under this Act when approved shall have effect as if enacted in this Act, and any such scheme, or any provisional order made for the purposes of such a scheme, may be revoked or altered by a scheme made in like manner and having the same effect as an original scheme.³

¹ The sections of the Public Health Act, 1875, which are referred Provisional Orders. to are as follows :—

§297. With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made :—

- (1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates :
- (2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by any persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable, shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid, and at which all persons interested shall be permitted to attend and make objections :
- (3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament :
- (4) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to a select committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills :
- (5) Any Act confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any Order in Council made in pursuance of any of the Sanitary Acts may be repealed, altered, or amended by any provisional order made by the Local Government Board and confirmed by Parliament :

**Notes to
Section 21.**

- (6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament :
- (7) The making of a provisional order shall be *prima facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with :
- (8) Every Act confirming any such provisional order shall be deemed to be a public general Act.

§298. The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly ; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purpose of defraying such costs.

**Incidental
provisions
in schemes.**

² In view of the fact that a scheme when approved shall have effect as if enacted in the Act, and cannot be revoked or altered, except by a scheme made in like manner as an original scheme, it will be advisable to consider carefully the possibility of changes being required in the future before inserting provisions on matters of an incidental or consequential character, which can be sufficiently dealt with by standing orders of the council or other regulations outside the scheme.

On this subject the Board of Education have issued a Memorandum (9th February 1903), supplementary to that from which extracts are given in the note to §17 (1) (p. 112). In this Memorandum the Board have suggested forms of wording for the ordinary provisions of schemes relative to the constitution of the committee, the term of office of the members, whether appointed from members of the council or from outside the council, casual vacancies, mode of election of external members (when the constitution of the committee provides for such election), and determination of office otherwise than by effluxion of time. The Memorandum intimates that the foregoing seem to be all the points for which a scheme should ordinarily make provision, and it is added :—

All matters relating to the proceedings of the Committee are matters which are more properly determined by the appointing council under paragraph (1) of the First Schedule to the Act than determined by the scheme.

The powers to be exercised, and the duties to be performed, by the council, so far as they are not regulated by the Act, are also matters which should be regulated by the council from time to time and should not be included in the scheme.

The same remark applies with even greater force to any provision in the scheme as to the delegation of powers.

³ The Board of Education have power, under §17 (7), *supra*, in **Section 22.** any case in which a scheme for constituting an education committee has not been made by a council and approved by the Board within twelve months after the passing of the Act (18th December 1902), to make a provisional order for the purposes for which a scheme might have been made.

Provisional
order for
education
committee.

This being the only purpose under the Act for which a provisional order may be made, the provisional order is treated by this subsection, for the purposes of revocation or alteration, as though it were itself a scheme.

22.¹—(1) In this Act and in the Elementary Education Acts the expression 'elementary school'² shall not include any school carried on as an evening school under the regulations of the Board of Education.

Provision
as to ele-
mentary
and higher
education
powers re-
spectively.

(2) The power to provide instruction under the Elementary Education Acts, 1870 to 1900, shall, except where those Acts expressly provide to the contrary,³ be limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education⁴ to scholars who, at the close of the school year, will not be more than sixteen years of age: Provided that the local education authority may, with the consent of the Board of Education, extend those limits⁵ in the case of any such school if no suitable higher education is available within a reasonable distance of the school.

(3) The power to supply or aid the supply of education other than elementary⁶ includes a power to train teachers,⁷ and to supply or aid the supply of any education except where that education is given at a public elementary school.

¹ Under the Act two bodies are constituted as local education authorities in the area of a non-county borough with a population of over ten thousand, or of an urban district with a population of over twenty thousand, namely the county council for the purposes of Part II. of the Act (higher education), and the borough or urban district council for the purposes of Part III. (elementary education).

Limits of
elementary
education.

Since the 'co-ordination of all forms of education' is one of the principal objects of the Act (*see* the provisions of §2 (1) and §17 (6)), and the carrying out of this object is one of the duties of the county council, and since the county council is the local education authority for higher education, in the areas of the boroughs and urban districts

**Notes to
Section 22.**

above mentioned, and for both higher and elementary education in the remainder of their area, it becomes necessary to make some provision in the Act for defining the powers of the body which is the local education authority for the purposes of elementary education. This is the object of the first two subsections of §22. In these subsections no definition is given of the term 'elementary education' (just as none was given in the Elementary Education Acts, 1870 to 1900, the term being, as Mr. Justice Wills remarked in the case *R. v. Cockerton* (p. 197), a term that may shift with the growth of general instruction and attainment), but certain negative provisions or limitations are stated.

These limitations (with the exception of the proviso at the end of subsection (2), clearly intended only for exceptional cases) are of a well-defined character, and are doubtless intended to prevent the recurrence of the difficulties which arose as to the upward limit of the powers of a school board under the Elementary Education Acts. These difficulties culminated in the *Cockerton* case (*supra*), and the two subsections substantially follow the lines of the judgment in that case.

(1) In evening schools.

² The object of subsection (1) appears to be to prevent the application of any rate raised for the purpose of Part III. of the Act (Elementary Education) to the maintenance of any evening school. It will be observed that the subsection only expressly excludes from the definition of 'elementary school' any school carried on as an evening school 'under the regulations of the Board of Education.' The object of the subsection is, however, attained by the conjunction with it of subsection (2). Under subsection (2) the power to provide instruction under the Elementary Education Acts, 1870 to 1900, which is given to the local education authorities under Part III. of the Act by §5, is limited to the provision in a public elementary school of instruction given under the regulations of the Board of Education: and therefore does not include any power to provide instruction in any school which is not conducted under the regulations of that Board. It follows that the power given to a local education authority to provide instruction under Part III. of the Act does not include any power to provide instruction in an evening school, whether conducted under the regulations of the Board of Education or not, and accordingly any borough or urban district council acting as a local education authority under Part III. of the Act, will not be justified in applying to the maintenance of any evening school any rate raised for the purpose of that Part of the Act.

It will, however, be competent for such a council, as it will be for any other council of a borough or urban district, however small its population, to provide or maintain evening schools out of the fund or rate available by virtue of §3 for the purposes of Part II. of the Act. For the regulations of the Board of Education for evening schools, *see* p. 649.

(2) In day schools.

³ The power to provide instruction under the Elementary Education Acts, 1870 to 1900, is the power given to a local education authority under Part III. of this Act. *See* §5.

Subsection (1) having limited the powers of councils which are local education authorities only for the purpose of Part III. of the

Act as regards evening schools, subsection (2) limits their powers as regards day schools. Notes to Section 22.

The words 'except where those Acts expressly provide to the 'contrary' refer to such provisions as those enabling school boards to provide or maintain, or to contribute towards the provision or maintenance of, industrial schools, or certified schools for blind and deaf children, or for defective and epileptic children (in the two latter of which cases the period of compulsory education extends to the end of the child's sixteenth year).

⁴ The regulations of the Board of Education which are here referred to are those contained in the Day School Code. The limit of age contained in Articles 13 and 110 of the Code for 1903, as laid on the Table (pp. 572 and 592), is not identical with that specified in this subsection. Age limit.

It will be observed that the Act does not itself fix a limit to the education which may be given in a public elementary school out of the fund or rate available for the purpose of Part III. of the Act, otherwise than by leaving the limit to be fixed by the regulations of the Board of Education. These regulations include the conditions which are required to be fulfilled by an elementary school in order to obtain the annual Parliamentary grant, and must therefore lie for not less than one month on the Table of both Houses of Parliament before they come into force (Elementary Education Act, 1870, §97).

In the Elementary Education Act, 1891, the expression 'school year' is defined to mean 'the year or other period for which an annual Parliamentary grant is for the time being paid or payable, under the minutes of the Education Department,' and by virtue of §24 (1), *infra*, it will, inasmuch as the context does not 'otherwise require,' have the same meaning in this Act. 'School year.'

⁵ As the words 'those limits' used in the subsection cannot only refer to the single limit expressed in the subsection, viz., the limit of age, it would seem that they must also refer to the limits which are imposed by the words 'in a public elementary school,' and 'under the regulations of the Board of Education.' It would seem, therefore, that the 'limits' which may be extended under the proviso at the end of the subsection include the limit fixed by the subsection to the kind of instruction which may be given, and to the description of school in which it may be given, as well as the limit fixed to the age of the scholars. Power of Board of Education to extend limits.

In connection with this proviso it is to be noted that §23 (1) provides that the powers of a council under this Act shall include the payment of reasonable travelling expenses for children attending school or college, whenever the council shall consider such payment required by the circumstances of their area, or of any part thereof.

This provision will affect the meaning to be given to the expression 'reasonable distance,' and will lessen the number of cases in which it will be necessary for the Board of Education to extend the 'limits' as mentioned in the subsection.

It is further to be noted (*see* the last paragraph of the note to subsection (1)) that the limitation imposed by this subsection upon the powers of the council of the non-county borough or urban district, acting as a local education authority under Part III. of the Act, does

**Notes to
Section 22.**

not restrict the powers which such a council will possess, in common with any other council of a borough or urban district, however small its population, of supplying or aiding the supply of higher education than that mentioned in the subsection, or of supplying or aiding the supply of education to children beyond the age mentioned, out of the fund or rate available by virtue of §3 for the purpose of Part II. of the Act.

**Education
other than
elementary.**

⁶ Every county, borough, and urban district council, whether a local education authority or not, will have power 'to supply or aid ' the supply of education other than elementary,' subject, in the case of councils which are local education authorities for the purposes of Part II. of the Act, to the conditions of §2 (1) and (2), and, in the case of councils which are not local education authorities for the purposes of that Part, to the conditions of §2 (2) and §3. In the former case the exercise of this power is obligatory on the council, in the latter it is optional.

**Training of
teachers.**

⁷ As to the training of teachers for elementary schools, *see* Articles 111 to 129 of the Day School Code, pp. 594 to 597, and as to the recognition, for the purposes of the Teachers Registration Orders in Council, of universities, training colleges, or other institutions for the training of secondary teachers, or of secondary schools in which student teachers are engaged, *see* regulation 3 (2) (i) and (ii) of the Order of the 6th March 1902, p. 669.

**Instruction
of Pupil
Teachers.**

With regard to the question of the powers of a council of a non-county borough or urban district, acting as a local education authority under Part III. of the Act, as respects the instruction of pupil teachers employed in public elementary schools maintained by the council, reference may be made to the case *Dyer and others v. the School Board for London* (1902, 2 Ch. 768). In that case the Court of Appeal, basing their decision on the judgment in the *Cockerton* case (p. 197), held that it was not within the power of the school board to establish centres for the instruction of pupil teachers, although it might be within the power of the school board to give their pupil teachers an education, which could not properly be described as elementary education, so long as it was given in the public elementary schools in which the pupil teachers were employed. In view of this decision most of the school boards which were maintaining pupil teacher schools or central classes for the instruction of pupil teachers have been empowered by the county, or county borough, council, under the Education Act, 1901 (Renewal) Act, 1902, p. 365, to carry on for one year from the 31st July, 1902, the work of such schools or classes and to apply so much as was required of the school fund to their maintenance. In cases in which the appointed day falls before July 31st, 1903, it would seem, in view of the provisions of Schedule II. (1), *infra*, that the temporary powers thus conferred upon a school board will, in a case in which the school board is the school board for a borough or urban district, the council of which is a local education authority under Part III. of this Act, be transferred to that council.

After the appointed day, or the 31st July 1903, whichever is the later date, it will not be competent for such a council, acting as a local education authority under Part III. of the Act, to continue to maintain any such classes; but any property acquired, and any liability

incurred, by the school board, for the purposes of such classes will be transferred to the council, as from the appointed day (*see* Schedule II. (1) and the note thereon), and, as in the case of evening schools, or of day schools in which instruction is given beyond the instruction which may legally be given in a public elementary school, it will still be competent for the borough or urban district council to continue to maintain pupil teacher schools and classes, subject to the limitations of §3 of the Act. Section 23.

In a case in which a scheme made by the Charity Commissioners provided that no secondary day school other than the school specified in the scheme should be carried on in the same buildings, and it appeared that a pupil-teachers' centre was being carried on therein, the Board of Education, on the matter being referred to them, stated that they had taken legal opinion on the question whether the pupil-teachers' centre was a secondary school within the meaning of the scheme and that the opinion was in the affirmative.

The power to supply education other than elementary may, in view of the last words of the subsection, include, in certain circumstances, the power to supply elementary education. The only express reservation is that the education supplied must not be education given at a public elementary school. It is of course often the case that some of the education given in an ordinary secondary school is elementary, and it is sometimes proper, owing to local circumstances, that even the principal part of the education given at an evening school should be elementary. In view of the provisions of §22 (1) and (2) such education may not be supplied under Part III. of the Act, and accordingly subsection (3) includes the power to supply it in the powers given under Part II. The subsection must, however, be read in connection with Part II. of the Act, and this appears to prevent the extension of its provisions so as to enable a council to supply elementary education at an elementary day school, such as a certified efficient school within the meaning of §48 of the Elementary Education Act, 1876. Limit of power to supply education.

23.—(1) The powers of a council under this Act shall include the provision of vehicles or the payment of reasonable travelling expenses for teachers or children attending school or college whenever the council shall consider such provision or payment required by the circumstances of their area or of any part thereof.¹ Miscellaneous provisions.

This section contains miscellaneous provisions which can be read and construed separately, and accordingly the subsections are dealt with separately, viz.: (2) on p. 148, (3) on p. 149, (4) on p. 149, (5) on p. 150, (6) on p. 151, (7) on p. 151, (8) on p. 151, (9) on p. 152, and (10) on p. 152.

¹ The powers given by this subsection are limited to cases in which the council consider the provision or payment 'required by the Provision of vehicles.

**Section
23 (2).**

'circumstances of their area or of any part thereof.' Where the council consider such provision or payment to be so required, it will be their duty to make similar provision for all teachers or all children who are similarly situated in relation to the particular circumstances, but this will not preclude them for making exceptional provision in the case of children who, in their opinion, are, by reason of any physical or mental defect, unable to attend school without guides or conveyances. See §3 of the Elementary Education (Defective and Epileptic Children) Act, 1899, p. 693.

It has sometimes been questioned whether a school board had power under the Elementary Education Acts to charge the school fund with the expenses of conveying children to school (*e.g.* across a ferry) or of paying for a van to bring children to school from outlying parts of the district. The possibility of such a question being raised as to the powers of a council under this Act, whether with regard to the conveyance of children or teachers to elementary or to secondary schools, is removed by the present subsection.

**Travelling
expenses.**

The question of payment of travelling expenses more often arises in connection with the attendance of children at schools giving education other than elementary, and the power given by this subsection in this connection will have to be borne in mind in dealing with cases arising under the proviso of §22 (2), *supra*.

Section 48 of the Elementary Education Act, 1876, enacts that in that Act 'child' means a child between the ages of five and fourteen years. By §24 (1) of this Act it is provided that 'unless the context otherwise requires' any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900, shall have the same meaning in this Act. It is questionable whether the present is a case in which the context does otherwise 'require,' but having regard to the Elementary Education Act, 1891, which speaks of children between the ages of three and fifteen, and is one of the Elementary Education Acts, 1870 to 1900, it is doubtful whether the special meaning above mentioned can be said to be attached to the word 'child' in those Acts.

(2) The power of a council to supply or aid the supply of education, other than elementary, shall include power to make provision for the purpose outside their area in cases where they consider it expedient to do so in the interests of their area, and shall include power to provide or assist in providing scholarships for, and to pay or assist in paying the fees of, students ordinarily resident in the area of the council at schools or colleges or hostels within or without that area.¹

**Power to
provide
scholarships
and fees.**

¹ No similar provision for the exercise of such powers as those given by this subsection was included in the Technical Instruction Act, 1889, and it was found necessary in order to prevent any questions of illegality from being raised to make explicit provision

for the purpose by means of §1 (1) of the Technical Instruction Act, **Section 23 (3).**
1891.

The power of a school board, or of a local authority under the Technical Instruction Acts, to provide prizes for conduct or proficiency **Prizes for proficiency.** does not appear ever to have been questioned.

With regard to the power of a school board to provide prizes for **Prizes for attendance.** attendance at public elementary schools, the Local Government Board have held that expenditure out of the school fund upon such prizes is legal only when the prizes are given to a reasonable number of children who have attended best, and not to all those whose attendances exceed a prescribed minimum. This view, which is based upon the compulsory character of attendance at elementary schools, appears to be inapplicable to the question of the legality of expenditure upon prizes for attendance at schools other than elementary, at which attendance is voluntary; and it has been the practice of a large number of school boards, and of local authorities under the Technical Instruction Acts, to give prizes (generally in the shape of a return of school fees) to students in evening schools merely for making a number of attendances at such schools in excess of a prescribed minimum.

(3) The county councillors elected for an electoral division consisting wholly of a borough or urban district whose council are a local education authority for the purpose of Part III. of this Act, or of some part of such a borough or district, shall not vote in respect of any question arising before the county council which relates only to matters under Part III. of this Act.¹

¹ The prohibition contained in this subsection does not apply in the case of any question arising before the county council which relates both to matters under Part III. of the Act and to any other matters, nor does it apply to any proceedings of the education committee of the council. **Voting of councillor for autonomous area.**

Further, the prohibition is not against acting or voting, but against voting only; it will therefore not prevent the county councillor concerned from being present, and taking part in the discussion.

(4) The amount which would be produced by any rate in the pound shall be estimated for the purposes of this Act in accordance with regulations made by the Local Government Board.

It was stated in the House of Commons, on behalf of the Government—but before the present subsection, leaving the matter to the Local Government Board, had been placed upon the paper—that the product of a penny rate was intended to mean the product of the penny rate after the allowance under the Agricultural Rates Act, **Produce of rate.**

**Section
23 (5).**

1896, of half the amount on agricultural land had been made, that is to say, the product of the rate calculated on the assessable, and not on the rateable value.

The purposes of this Act for which the amount which would be produced by any rate in the pound has to be estimated are :—

- (1) the purposes of higher education, for which the council of a county may under §2 (1) raise a sum not exceeding the amount which would be produced by a rate of twopence in the pound ;
- (2) the purpose of supplying or aiding the supply of education other than elementary, for which the council of any non-county borough or urban district may under §3 raise a sum not exceeding the amount which would be produced by a rate of one penny in the pound ;
- (3) the purpose of estimating the amount which would be produced by a penny rate in the area of the authority, and ascertaining how far such amount falls short of ten shillings a scholar, and of estimating the amount which would be produced by a rate of threepence in the pound, pursuant to the provisions of §10.

51 & 52
Vict. c. 42.
54 & 55
Vict. c. 73.

(5) The Mortmain and Charitable Uses Act, 1888,¹ and so much of the Mortmain and Charitable Uses Act, 1891,² as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to any assurance,³ within the meaning of the said Act of 1888, of land for the purpose of a school house for an elementary school.⁴

Exemption
from Mort-
main Acts.

¹ See pp. 525 to 532.

² §5 of the Mortmain and Charitable Uses Act, 1891, so requires. See p. 533.

³ 'Assurance' is defined by §10 (1) of the said Act of 1888.

⁴ §6 (3) of the said Act of 1888 provided that the land which might be assured by will under that section should not exceed one acre for any one school house.

The Mortmain and Charitable Uses Act Amendment Act, 1892 (see p. 535), had already applied the exemptions contained in §6 of the Mortmain Act, 1888, to any assurance by deed of land to any 'local authority' as therein defined for any purpose for which such authority is empowered by any Act of Parliament to acquire land.

By an order made under §27 (2), *infra*, and dated the 16th March 1903, the Board of Education appointed the 1st April 1903 as the appointed day for the purpose of this subsection.

It will be noticed (see §27 (1), *infra*) that the provisions of this subsection do not extend to London.

For a similar partial exemption from the provisions of the Mortmain Acts, see the Technical and Industrial Institutions Act, 1892, §10 (1), p. 363.

(6) A woman is not disqualified, either by sex or marriage, for being on any body of managers or education committee under this Act.¹ Section 23 (6). —

¹ The Interpretation Act, 1889, §1 (1) (a), provides that unless the contrary intention appears, words importing the masculine gender shall include females, and it is expressly provided by §17 (3) (c) that every scheme for the establishment of an education committee shall provide for the inclusion of women, but it has been said (*Beresford Hope v. Lady Sandhurst*, 23 Q.B.D., at p. 96) that where a statute deals with the exercise of public functions, unless that statute expressly gives power to women to exercise them, it is to be taken that the true construction is that the powers given are confined to men, and this subsection was inserted to guard against such a construction being given to this Act. Removal of disqualification of women.

The provision would probably be held to apply to a sub-committee, to which persons other than members of an education committee might be appointed.

(7) Teachers in a school maintained but not provided by the local education authority shall be in the same position as respects disqualification for office as members of the authority as teachers in a school provided by the authority.¹

¹ Paid teachers in a school provided by a local education authority are disqualified for office as members of the authority (*see* §17 (4), and the note thereon, pp. 108, 109). This subsection imposes a like disqualification for membership of the authority upon paid teachers in a school maintained, even though not provided, by the authority. Disqualification of teachers in voluntary schools.

It will, however, be noticed that though teachers in both classes of schools are thus disqualified for membership of the authority, it is provided in effect by §17 (4) that this disqualification shall not operate to disqualify them for membership of the education committee.

(8) Population for the purposes of this Act shall be calculated according to the census of nineteen hundred and one.¹

¹ The only provision of this Act for the purpose of which it appears to be necessary that population should be 'calculated' is that contained in the proviso to §1 (p. 26). Calculation of population.

The cases in which new local education authorities may arise in the future appear to be (1) where two districts or boroughs are amalgamated whose joint population calculated according to this rule is above the required amount, and (2) where an urban district with a population so calculated of not over 20,000 but over 10,000 becomes a borough. As to the calculation of population where districts were added to a county borough by an order coming into force in the year 1901, *see In re Druitt*, *Druitt v. Dehler* (*Times*, 21st February 1903).

Section
23 (9).

51 & 52
Vict. c. 41.

(9) Subsections one and five of section eighty-seven of the Local Government Act, 1888¹ (which relate to local inquiries), shall apply with respect to any order, consent, sanction, or approval which the Local Government Board are authorised to make or give under this Act.

Local
inquiries.

¹ Subsections (1) and (5) of the Local Government Act, 1888, are as follows :—

§87 (1) Where the Local Government Board are authorised by this Act to make any inquiry, to determine any difference, to make or confirm any order, to frame any scheme, or to give any consent, sanction, or approval to any matter, or otherwise to act under this Act, they may cause to be made a local inquiry, and in that case, and also in a case where they are required by this Act to cause to be made a local inquiry, sections two hundred and ninety-three to two hundred and ninety-six, both inclusive, of the Public Health Act, 1875, shall apply as if they were herein re-enacted, and in terms made applicable to this Act.

(5) Where the Board cause any local inquiry to be held under this Act, the costs incurred in relation to such inquiry, including the salary of any inspector or officer of the Board engaged in such inquiry, not exceeding three guineas a day, shall be paid by the councils and other authorities concerned in such inquiry, or by such of them and in such proportions as the Board may direct, and the Board may certify the amount of the costs incurred, and any sum so certified and directed by the Board to be paid by any council or authority shall be a debt to the Crown from such council or authority.

33 & 34
Vict. c. 75.

(10) The Board of Education may, if they think fit, hold a public inquiry for the purpose of the exercise of any of their powers or the performance of any of their duties under this Act, and section seventy-three of the Elementary Education Act, 1870,¹ shall apply to any public inquiry so held or held under any other provision of this Act.²

Public
inquiries.

¹ See p. 245.

² The Board of Education have also by the Board of Education Act, 1899, and the Orders in Council made thereunder, all the powers of the Charity Commissioners to hold an inquiry in relation to any charity which is solely educational (*see* pp. 396 to 402), and such inquiry may be held by the same officer at the same time as the inquiry under this Act,

24.—(1) Unless the context otherwise requires, any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900,¹ shall have the same meaning in this Act.²

Section 24.
Inter-
pretation.

(2) In this Act the expression “minor local authority”³ means, as respects any school, the council of any borough or urban district, or the parish council or (where there is no parish council) the parish meeting of any parish which appears to the county council to be served by the school. Where the school appears to the county council to serve the area of more than one minor local authority the county council shall make such provision as they think proper for joint appointment of managers by the authorities concerned.

(3) In this Act the expressions “powers,” “duties,” “property,” and “liabilities” shall, unless the context otherwise requires, have the same meanings as in the Local Government Act, 1888.⁴

(4) In this Act the expression “college” includes any educational institution, whether residential or not.⁵

51 & 52
Vict. c. 41.

(5) In this Act, unless the context otherwise requires, the expression “trust deed” includes any instrument regulating the trusts or management of a school or college.⁶

¹ The Short Titles Act, 1896, provided that the following group of Acts might without prejudice to any other mode of citation be cited by the collective title of ‘The Elementary Education Acts, 1870 to 1893,’ viz. The Elementary Education Acts, 1870, 1873, 1876, 1880, and 1891; The Elementary Education (Industrial Schools) Act, 1879; The Education Code Act, 1890; The Elementary Education (Blind and Deaf Children) Act, 1893; and The Elementary Education (School Attendance) Act, 1893. The Elementary Education Act, 1897, is by §3 to be read as part of the Elementary Education Act, 1870, and may be cited by the above title. Robson’s Act is by §2 to be read with the Elementary Education Acts, 1870 to 1897, and may be cited as The Elementary Education (School Attendance) Act (1893) Amendment Act, 1899. The Elementary Education (Defective and Epileptic Children) Act, 1899, by §15 may be cited with the Elementary Education Acts, 1870 to 1893, and may be cited by the above title. The Elementary Education Act, 1900,

‘The Elementary Education Acts, 1870 to 1900.’

Section 25. by §9 may also be cited with the Elementary Education Acts, 1870 to 1893, and may be cited by the above title. The result appears to be that the Acts above mentioned may be cited as the Elementary Education Acts, 1870 to 1900, and are the Acts referred to in this section and in §25 (2), and §27 (4).

Definitions. ² References to the various definitions given in the Elementary Education Acts will be found in the Index to this book, *sub nomine* 'definitions.'

'Minor local authority.' ³ As to the powers given to a minor local authority, *see* §6 (1) and note; Schedule I. B (5) and note; and notes to §12, and §20.

'Powers,' etc. ⁴ For the definitions so given of these expressions, *see* note 1 to §5.

'College.' ⁵ The word 'college' is used in §2 (2), §4 (1) and (2), and §20 (a), and the very wide terms of the definition given in this subsection will tend to support any authority having powers under Part II. of the Act in taking a correspondingly wide view as to the educational institutions which they may provide or aid.

'Trust deed.' ⁶ This subsection must be read as subject to the maxim that obligations by deed cannot be altered but by deed. Accordingly where there is a deed in existence regulating the trusts or management of a school or college, this subsection will not have the effect of varying the trusts by including any other instrument such as a tenancy agreement not by deed regulating the trusts or management of such school or college, nor will it be right to treat such other instrument as the trust deed of the school for the purpose of §11, and any order under §11 will have to be read as part of the existing trust deed, and not as part of such other instrument.

Agreement of tenancy of school. Many schools owned by private owners have been let on yearly agreements which contain provisions for regulation of the trusts and management of the school and in particular for the appointment of foundation managers. Such an agreement, if a merely nominal rent is reserved in it, will not be within the exception in §2 of the Statute of Frauds, and therefore by the Real Property Act, 1845, 8 & 9 Vict. c. 106, §3, it will be void at law unless made by deed, but as long as the school house is occupied pursuant to it, it will none the less be an instrument regulating the trusts and management of the school and will therefore be a 'trust deed' within the meaning of this Act, and the foundation managers will be appointed under the provisions of it pursuant to §11 (1). In cases, however, where it is desirable that the instrument should have legal validity apart from the occupation under it, the agreement should be by deed, *e.g.* if in order to avoid changes of the tenant a grant be made for a term of years to the minister and churchwardens and their successors, the lease to them should be by deed in order that an interest may pass by the grant so as to bring §7 of the School Sites Act, 1841 (p. 541), into operation.

Provisions as to proceedings, transfer, etc., application of enactments and repeal. **25.—(1)** The provisions set out in the First and Second Schedules to this Act relating to education committees¹ and managers,² and to the transfer of property and officers, and adjustment,³ shall have effect for the purpose of carrying the provisions of this Act into effect.

(2) In the application of the Elementary Education Acts, 1870 to 1900,⁴ and other provisions referred to in that schedule, the modifications specified in the Third Schedule⁵ to this Act shall have effect.

Section
25 (2).

(3) The enactments mentioned in the Fourth Schedule to this Act shall be repealed to the extent specified in the third column of that schedule.⁶

¹ Schedule I. (A.) relates to education committees.

² Schedule I. (B.) relates to managers.

Effect of
Schedules
and repeals.

³ Schedule II. relates to the 'transfer of property and officers, and adjustment.'

⁴ See note to §24 (1) as to the Acts which are included in 'the Elementary Education Acts, 1870 to 1900.'

⁵ See the footnote to Schedule III. (p. 178).

⁶ This must be read together with §27 (1), *infra*, which enacts that this Act shall not extend, except as expressly provided, to London, and as Schedule IV. of the Act does not expressly provide that the repeals shall extend to London, the various Acts and portions of Acts repealed will remain in force so far as they apply to London.

For the provisions of §38 (2) of the Interpretation Act, 1889, as to the effect of these repeals, see p. 184.

26.—For the purposes of this Act the Council of the Isles of Scilly¹ shall be the local education authority for the Scilly Islands, and the expenses of the council under this Act shall be general expenses of the Council.

Applica-
tion of Act
to Scilly
Islands.

¹ A provisional order establishing a separate council for the Scilly Islands, and conferring thereon the powers of a county council, was made under §74 of the Local Government Act, 1894, and confirmed by 53 and 54 Vict. c. clxxvi.

27.—(1) This Act shall not extend to Scotland or Ireland, or, except as expressly provided, to London.¹

Extent,
commence-
ment, and
short title.

(2) This Act shall, except as expressly provided,² come into operation on the appointed day,³ and the appointed day shall be the twenty-sixth day of March nineteen hundred and three,⁴ or such other day, not being more than eighteen months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provisions of this Act, and for different councils.

Section
27 (3).

1 Edw. 7.
c. 11.
2 Edw. 7.
c. 19.

(3) The period during which local authorities may, under the Education Act, 1901, as renewed by the Education Act, 1901 (Renewal) Act, 1902,⁵ empower school boards to carry on the work of the schools and classes to which those Acts relate shall be extended to the appointed day, and in the case of London to the twenty-sixth day of March nineteen hundred and four.

(4) This Act may be cited as the Education Act, 1902, and the Elementary Education Acts, 1870 to 1900, and this Act may be cited as the Education Acts, 1870 to 1902.⁶

¹ The only provision expressly extending this Act to London is subsection (3) of this section.

Commence-
ment of Act.

² The express provisions contained in the Act involving its commencement before the appointed day are: those contained in §11 (2), which provides for applications as to appointments of foundation managers, and §11 (7), which relates to the receipt by a school of an endowment or other benefit being dependent on the qualifications of the managers; those contained in §17 (7), which provides that the time after which the Board of Education may make a provisional order for the purposes of a scheme under that section is to run from the passing of the Act; those contained in §27 (3), *infra*, which extends the operation of the 'Cockerton Acts' (see note 5, *infra*) to the appointed day; those contained in §14, with relation to fees, which confines the fees to be taken into account under that section to those which were charged before the passing of the Act; those contained in Schedule II. (9), as to persons who are, at the passing of the Act, members of any council, and will become disqualified; in Schedule II. (10), which prevents elections of members of a school board after the passing of the Act; in Schedule II. (11) and (12), which deal with grants payable in respect of a period before the appointed day; and in Schedule II. (15), which provides for information being supplied to the new authority.

Besides such provisions as are contained in the Act itself, with regard to its operation before the appointed day, it is to be noted that §37 of the Interpretation Act, 1889, provides,—

Where an Act passed after the commencement of this Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant, or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or byelaws, to give notices, to prescribe forms, or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction, that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation.

³ The effect of the subsection is that if the Board of Education had not, prior to the 26th March, 1903, appointed other days for

all the purposes and provisions of the Act, the Act would have come into operation on that day. Notes to
Section 27.

On the 16th March, 1903, the Board appointed the 1st April, 1903, as the appointed day for the purpose of §23 (5) (p. 150), and between the 16th and 26th March they issued a series of orders postponing, according to the circumstances of each case, the date at which the Act was to come into operation, for different purposes and for different provisions, for the council of every county, borough, and urban district in England and Wales, with the exception of London. In making these orders the Board of Education have always appointed a specified day, 'or such later day or days as the Board may, for any such purpose or provision of the Act, for any such council hereafter appoint.' In a few cases the Board have exercised the power thus reserved to them by postponing still further the date at which the Act is to come into operation. Appointed
day.

The 1st April, 1903, has been thus appointed as the appointed day for all purposes and provisions of the Act for the councils of 8 counties and 13 county boroughs, and for the councils of 16 non-county boroughs and 2 urban districts, which are local education authorities for the purpose of Part III. of the Act; and the same date has been similarly appointed, for the purposes and provisions of Part II. of the Act, and so much of the Act as is consequential upon and necessary for the operation of that Part, for the councils of 4 other counties and 1 county borough, a later date being appointed for all other purposes and provisions of the Act, except for the purposes of §23 (5).

For the councils of boroughs and urban districts which have powers under Part II. only of the Act (*see* the note to §3, p. 37) the Board of Education have issued a single order appointing for these councils, for the purposes of §3 of the Act, and of so much of the Act as is consequential upon, or incidental to, the powers and duties conferred by that section, the same day as the day which the Board had already appointed for the purposes of Part II. of the Act for the council of the county in which each such non-county borough or urban district is comprised. Appointed
day for pur-
pose of §3.

⁴ By §36 of the Interpretation Act, 1889, the expression 'commencement,' when used in reference to this Act, means the time when it comes into operation, and this Act must be construed as coming into operation on the expiration, *i.e.* at midnight, of the day preceding the 'appointed day.' Time of com-
mencement.

⁵ These Acts, commonly called the Cockerton Acts (*see* p. 364), enabled the councils of counties or county boroughs or, with the sanction of the Board of Education, other local authorities under the Technical Instruction Acts, for the district within which any school or class, to which those Acts related, was held, to empower the school board to carry on such school or class until July 31st, 1903, although such a course would without such sanction have been illegal. It will be observed that it is not the existing authorisation to a school board which is extended by this subsection, but only the period during which an authorisation may be given.

⁶ As to the Acts which are included in the Elementary Education Acts, 1870 to 1900, *see* note to §26 (1), *supra*. The definition given in this section excludes the Cockerton Acts (*see* preceding note) from the Education Acts, 1870 to 1902, presumably on account of their transitory nature.

SCHEDULES.

FIRST SCHEDULE.¹

PROVISION AS TO EDUCATION COMMITTEES AND MANAGERS.

A.—*Education Committee.*

Schedule I. (1) The council by whom an education committee is established may make regulations as to the quorum,² proceedings, and place of meeting of that committee, but, subject to any such regulations, the quorum, proceedings, and place of meeting of the committee shall be such as the committee determine.

(2) The chairman of the education committee at any meeting of the committee shall, in case of an equal division of votes, have a second or casting vote.

(3) The proceedings of an education committee shall not be invalidated by any vacancy among its members or by any defect in the election, appointment, or qualification of any members thereof.

(4) Minutes³ of the proceedings of an education committee shall be kept in a book provided for that purpose, and a minute of those proceedings, signed at the same or next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting of the committee at which the minute is signed, shall be received in evidence without further proof.⁴

(5) Until the contrary is proved, an education committee shall be deemed to have been duly constituted and to have power to deal with any matters referred to in its minutes.

(6) An education committee may, subject to any directions of the council, appoint such and so many sub-committees,⁴ consisting either wholly or partly of members⁵ of the committee, as the committee thinks fit.

¹ §25 (1) enacts that the provisions set out in this Schedule shall have effect for the purpose of carrying the provisions of the Act into effect.

Regulation
of proceed-
ings.

² In framing regulations for the proceedings it will be advisable to provide powers which will enable the committee to act promptly when necessary, either by permanent sub-committees for specific purposes, or by fixing a small quorum in cases of urgency. *E.g.* the consent of the local education authority being required to the appointment of teachers, any delay in giving such consent may seriously prejudice the chances of securing the services of the best candidate. It will also be advisable to make the provisions as to notice of meetings as easy as possible to comply with, in order to facilitate proof of due notice in cases where it is essential:

e.g. teachers' agreements frequently contain a clause that the teachers shall not be dismissed save by resolution passed at a meeting of which every manager shall have received due notice, and this provision will presumably apply to a resolution of the local education authority or its committee for the dismissal of a teacher on educational grounds. Notes to
Schedule I.

³ These provisions are similar to those contained in the Local Government Act, 1894, Schedule I., Part III. (1) and (2). The minute in order to be evidence should state that it was signed at the meeting to which it relates or at the next ensuing meeting.

In reference to the minutes of the proceedings of the council of a borough it is provided by §233 of the Municipal Corporation Act, 1882, that those minutes are to be open to the inspection of a burgess on payment of a fee of one shilling, and a burgess may make a copy thereof or take an extract therefrom, and a burgess may make a copy of or take an extract from an order of the council for the payment of money, and the abstract of the treasurer's amounts are to be open to the inspection of all the ratepayers, and those provisions are made applicable to county councils by §75 of the Local Government Act, 1888. Inasmuch as the payment of money ordered by an education committee of a borough will be made out of the borough fund, and will be made by delegation from and therefore on behalf of the council, it might be held that the above provision applied to such an order, but it is difficult to see how the proceedings of the education committee could be said to be proceedings of the council within the above section without making it also applicable to the minutes of proceedings of other committees, of which it is not usual to permit inspection. Minutes.

⁴ Schedule III. of the Elementary Education Act, 1870, provided (*see* p. 263) that the appointment of any officer of a school board might be made by minute signed by the chairman and countersigned by the clerk, and if so made should be as valid as if it were made under the seal of the board. This provision having been repealed the appointment of officers by a council as a local education authority will stand on the same footing as any other appointment by such council, and should as a rule be made under the seal of the council, and the same rule will apply to the consent which the council is required to give before the appointment of any teacher in a voluntary school maintained by them is valid. It may, however, be inferred from the judgment of the Court of Appeal in *Lawford v. Billericay Rural District Council* (19 Times Law Reports (1903) 322) that although such consent had not been given under seal the local education authority might still be liable for the salary of a teacher employed in a school maintained by them in respect of services rendered so far as such services were necessary for the maintenance and efficiency of the school and had been accepted by the education authority. In the case mentioned the plaintiff having been retained by an agreement under the seal of the defendant council to act as engineer in respect of a certain sewerage scheme was also instructed by a resolution of a committee which was subsequently confirmed by the defendant council to carry out some additional works not included in the said scheme, but there was no further contract under seal. The Local Government Act, 1894, provides that a district council may authorise a committee appointed for any of the purposes of the Public Health Acts to do any act which the council might have done for that purpose other than the raising of a loan or the making of a rate or contract. The Court of Appeal held that the council could not authorise the committee, and that the committee did not purport to make any contract on their behalf, and that therefore the contract if made was made by the council, but that, nevertheless, the absence of a seal was not a ground of defence seeing that the defendants had accepted and availed themselves of the plaintiff's services. 'Wherever the purposes for which a corporation is created render it necessary that work should be done or goods supplied to carry such purposes into effect and orders are given at a board regularly constituted Appointment of
officers.

Schedule I. 'and having general authority to make contracts for work or goods necessary for the purposes for which the corporation was created and the work is done or goods supplied and accepted by the corporation and the whole consideration for payment executed, the corporation cannot keep the goods or the benefit and refuse to pay on the ground that, though the members of the corporation who ordered the goods or work were competent to make a contract and bind the rest, the formality of a deed or of affixing the seal was wanting, and then say "no action lies, we are not competent to make a parole contract and we avail ourselves of our own disability"' (*per* Vaughan Williams L. J., at p. 323, citing *Clarke v. Cuckfield Union*, 21 L. J., Q. B., 349). In a similar case *Scott v. Clifton School Board* (14 Q. B. D. 500), the plaintiff had been duly appointed architect by a minute of the board, and it was held that he was entitled to receive payment for his services, on the ground that he was appointed as an officer under §35 of the Elementary Education Act, 1870, although the appointment was not under seal; but in *Start v. West Mersey School Board* (63 J. P. 440), when there was no express contract to pay for services rendered, but the contract was to pay to the plaintiff as architect a percentage on the cost of construction, and the buildings were not erected according to his plans, it was held that the plaintiff could not recover as the contract was not under seal.

Sub-committees.

⁴ Schedule III. (3) shows that the Act contemplates that the education committee shall appoint a sub-committee for school attendance purposes.

⁵ If a sub-committee for school attendance contains persons who are not members of the committee, it will be advisable that if they join in directing any legal proceeding, it should appear on the minutes that they are members of a sub-committee appointed for school attendance purposes. See Elementary Education Act, 1876, §38, and Schedule III. (3).

B.—Managers.

(1) A body of managers may choose¹ their chairman, except in cases where there is an ex-officio chairman,² and regulate their quorum and proceedings in such manner as they think fit, subject, in the case of the managers of a school provided by the local education authority, to any directions of that authority.³

Provided that the quorum shall not be less than three, or one-third of the whole number of managers, whichever is the greater.⁴

(2) Every question at a meeting of a body of managers shall be determined by a majority of the votes of the managers present and voting on the question, and in case of an equal division of votes the chairman of the meeting shall have a second or casting vote.

(3) The proceedings of a body of managers shall not be invalidated by any vacancy in their number, or by any defect in the election, appointment, or qualification of any manager.

(4) The body of managers of a school provided by the local education authority shall deal with such matters relating to the management of the school,⁵ and subject to such conditions and restrictions as the local education authority determine.

(5) A manager of a school not provided by the local education authority, appointed by that authority or by the minor local

authority, shall be removable by the authority by whom he is appointed, and any such manager may resign his office. Schedule I. (6).

(6) The body of managers shall hold a meeting at least once in every three months.⁶

(7) Any two managers may convene a meeting of the body of managers.

(8) The minutes of the proceedings of every body of managers shall be kept in a book provided for that purpose.⁷

(9) A minute of the proceedings of a body of managers, signed at the same or the next ensuing meeting by a person describing himself as, or appearing to be, chairman of the meeting at which the minute is signed, shall be received in evidence without further proof.

(10) The minutes of a body of managers shall be open to inspection by the local education authority.

(11) Until the contrary is proved, a body of managers shall be deemed to be duly constituted and to have power to deal with the matters referred to in their minutes.

¹ So far as schools provided by the local education authority are concerned these rules replace the rules in Schedule III. of the Elementary Education Act, 1870. Those rules distinguished between 'electing' a chairman permanently and 'choosing' a chairman at a particular meeting, but it might be argued that this rule by using the word 'choose' only gives powers to adopt the latter course. Choosing a chairman.

² It has been usual in the trust deeds of schools connected with the Church of England to name the incumbent of the parish in which a school is situated as *ex-officio* chairman of the managers, and a provision to this effect in any trust deed being recognised in this rule cannot be inconsistent with this Act, and will therefore remain operative whenever the incumbent is a manager, notwithstanding that it may be necessary for the Board of Education to make an order under §11 for the appointment of managers. *Ex-officio* chairman.

³ The effect of this rule and Rule 4, *infra*, is to make the managers of schools provided by the local education authority little more than delegates of the local education authority with a similar managerial position to that formerly occupied by managers of a school provided by a school board, but with a different position, in respect of the mode of appointment and removal, when the local education authority is a county council (*see* note to §6, p. 46.). Managers of council schools.

⁴ The quorum may be greater than three where schools have been grouped under §12, or where the local education authority being a council of a borough or urban district determine that the number of managers shall be greater than nine under §6 (1)—or when the local education authority consider that the circumstances of a school require that the number should be twelve or more under §6 (2). Quorum.

⁵ §11 (6) provides that the body of managers appointed for a public elementary school not provided by the local education authority shall be the managers of that school both for the purposes of the Education Acts, 1870 to 1900, and this Act, and does not authorise the local education authority to impose any such limit or conditions or restrictions as are authorised by this rule in respect of schools provided by the authority. Accordingly the managers of schools not provided by the local education Powers of managers of voluntary schools.

Notes to Schedule I. authority will be entitled to exercise all the ordinary powers and duties of managers save in so far as those powers are limited by the express terms of the Act or by express directions as to the secular instruction to be given in the school given by the local education authority pursuant to §7 (1) (a.)

'Management.'

Management is not defined in any way in the Elementary Education Acts, but it is defined in the Grammar Schools Act, 1840, in the following words :—

'The words discipline and management of the school shall mean and include all matters respecting the conduct of masters or scholars, the methods and times of teaching, the examinations and efficiency of the scholars of any school, and the ordering of returns and reports with reference to such particulars or any of them.'

This definition does not conflict with the rules in Schedule III. of the Act of 1870, nor with the rules in the schedule of this Act, and is generally speaking in accordance with the existing practice, and if care is taken to note the express limitations imposed on managers by this Act, and the different uses of the word managers in this Act (*see* notes to §6 p. 44), the definition may be usefully borne in mind as a fair description of the managers' field of action.

Article 8 of the Code for 1902 dealt with the duties of managers and provided that :—

Responsibilities of Managers.

The managers are held responsible by the Board of Education for the conduct of their schools, for their maintenance in efficiency, and for the provision of all needful furniture, books, and apparatus.

This Article has been cancelled in the Code for 1903, in view of the provisions of the Education Act, 1902, which by §5 expressly imposes on the local education authority the responsibility for and control of all secular instruction, and by §7 (1) imposes on the local education authority the duty of maintaining and keeping efficient all public elementary schools not provided by them, including the supply of all needful furniture, books, and apparatus. The result seems to be that the managers of a school not provided by the local education authority will have the control of the religious instruction, and will, subject to the provisions of §§5 and 7, appoint and dismiss the teachers, and be responsible for the conduct of all teachers and scholars, the methods and times of teaching, the examination and efficiency of the scholars, and the ordering of returns or reports with reference to such particulars or any of them : and will further be responsible for forwarding to the local education authority all requirements for the maintenance and efficiency of the school including the provision after the appointed day of salaries and of all needful furniture, books, and apparatus, other than the furniture belonging to the trustees or managers, and in use before the appointed day.

Correspondent.

The managers are also required by the Code to appoint a correspondent with the Board of Education, and through this correspondent any communications with the Board or with the local education authority that may be necessary will pass.

Visiting the school.

It is also the duty of managers to visit the school periodically to see that all conditions required by the Code are being complied with, and to check the registers and sign them (p. 606). It is also usual for managers on visiting the school to sign the log-book. Managers are also bound by §22 of the Elementary Education Act, 1870, to truly fill up and return to the local education authority such forms or to cause such information to be given as will enable the local education authority to ascertain whether a child resident in their district, and attending the school, is attending the same in accordance with the byelaws, and to cause to be produced to the officer, duly authorised, the registers and other books and documents containing information thereon.

Returns.

The existing managers of a voluntary school are also bound by Schedule II. (15) between the passing of the Act and the appointed day to

give such information to the local education authority as the latter may reasonably require. Schedule II.

As regards the punishment of scholars, it has been decided that the authority which must be taken to be delegated by the parent to the school-master, to inflict reasonable corporal punishment on a scholar, is not limited to acts done within the four walls of the school, and may extend to the conduct of the scholar while on the way to or from school (*Cleary v. Booth*, 1893, 1 Q. B. 465). In the case of *Gardner v. Bygrave* (6 T. L. R. 23), it appeared that the headmaster in an elementary school had caned a scholar on the hand, and the magistrate, while finding that if caning on the hand was a proper method of punishment to adopt, the punishment was properly inflicted, convicted the master on the ground that caning on the hand, however inflicted, was necessarily attended by risk of serious injury, and was unnecessary, and was therefore improper, but the Court of Queen's Bench held that this was not sufficient to justify the conviction and quashed it. In the case of *Crisp v. Thomas* (63 L. T. 756), a scholar, who was injured by the fall of a black board in a school, sued one of the managers on the ground that the injury was due to the negligence of one of the teachers. It was held that there was no evidence of negligence, but that if there had been negligence on the part of a teacher, neither the committee nor the individual manager would have been responsible for it, seeing that they had in the particular case no control over the way in which the school was managed beyond the power of dismissing the head mistress. Discipline.

⁶ In large schools it is usually found convenient to have meetings at least once a month, and in all schools it is usually expedient to hold the meetings either during or immediately after school hours in order that the head teachers may be present. At the meetings the log-book and punishment book should always be produced and examined. Number and times of meetings.

⁷ It is provided by Rule 10, that these minutes shall be open to inspection by the local education authority. This will include all minutes of their proceedings respecting the management of the school as a public elementary school for the purpose of the trust deed, including religious instruction, but will not apply where the foundation managers are also trustees of the endowment and keep a separate minute book respecting their proceedings, if any, which relate only to the trusts and management of their endowment and do not relate to the management of the school as a public elementary school. Minutes of Managers.
Minutes of Foundation Managers.

SECOND SCHEDULE.

PROVISIONS AS TO TRANSFER OF PROPERTY AND OFFICERS, AND ADJUSTMENT.

(1) The property, powers,¹ rights, and liabilities (including any property, powers, rights, and liabilities vested, conferred, or arising under any local Act or any trust deed)² of any school board or school attendance committee existing at the appointed day shall be transferred to the council exercising the powers of the school board.³

¹ Section 5 having provided that the powers and duties of school boards and school attendance committees should on the appointed day devolve upon the council being the local education authority for the purpose of Part III. of the Act, this clause transfers to that council, which will in fact exercise the powers of any school board, all property, powers, rights, Transfer of powers, etc., of existing school board.

Schedule II. (2).

and liabilities, of the school board existing at the appointed day. For definitions of powers (which includes rights), property, and liabilities, *see* note 2 to §5, p. 40.

Powers under trust-deed.

² The cases in which powers of a school board arise under a trust deed will usually either be cases where the school board has been constituted a trustee under §13 of the Elementary Education Act, 1873, or cases where a scheme under the Endowed Schools or Charitable Trusts Acts has given powers to a school board to appoint trustees of an educational endowment.

Property acquired *ultra vires*.

³ With regard to the question as to what properties and liabilities are transferred by this clause in cases where the school board has acquired property or incurred liabilities in circumstances which made it *ultra vires* of the school board to acquire or incur them, *e.g.* for the purposes of higher education, or for a pupil-teachers' centre, *see* the note to the Education Act, 1901, *ad fin.* (p. 365).

(2) Where, under the provisions of this Act, any council relinquishes its powers and duties¹ in favour of a county council, any property or rights acquired and any liabilities incurred, for the purpose of the performance of the powers and duties relinquished, including any property or rights vested or arising, or any liabilities incurred, under any local Act or trust deed, shall be transferred to the county council.

Relinquishment of powers.

¹ The council of a non-county borough or urban district having powers under this Act may by §20 (b) at any time after the passing of the Act by agreement with the council of the county and with the approval of the Board of Education relinquish any of their powers and duties under this Act in favour of the council of the county. Under §20 (b), as it stood in the Bill as originally introduced, the council of a non-county borough or urban district was empowered to relinquish in favour of the council of the county their powers and duties under this Act as to elementary education. The corresponding clause of the Schedule then stood, 'Where under the provisions of this Act any council relinquishes its powers and duties in favour of a county council, any property or rights acquired, and any liabilities incurred for the purpose of the performance of their powers and duties with respect to education shall be transferred to the county council.' Looking only at the clause as it now stands, the right inference from the words seems to be that the clause is intended to apply although only part of the power and duties are relinquished, and that in such cases such part of the property or rights acquired and of the liabilities incurred as have been acquired or incurred for the purpose of the performance of the powers and duties relinquished shall be transferred to the county council.

(3) Any loans transferred to a council under this Act shall, for the purpose of the limitation on the powers of the council to borrow, be treated as money borrowed under this Act.¹

Transferred loans.

¹ The result of so treating them is that they will not be reckoned as part of the total debt of the county for the purpose of §69 (2) of the Local Government Act, 1888, or as part of the debt of a county borough, borough, or urban district for the purpose of the limitations on borrowing under §234 (2) (3) of the Public Health Act, 1875 (*see* §19 (2)), and the note thereon.

52 & 53
Vict. c. 76.
54 & 55
Vict. c. 4.

(4) Any liability of an urban district council incurred under the Technical Instruction Acts, 1889 and 1891, and charged on any fund or rate, shall, by virtue of this Act, become charged on

the fund or rate out of which the expenses of the council under this Act are payable,¹ instead of on the first-mentioned fund or rate.

Schedule II. (5).

¹ By §4 (2) (b) of the Technical Instruction Act, 1889, it was provided that the local rate for the purposes of that Act should be, in the case of an urban sanitary authority not being a borough council, the district fund and general district rate, or other fund or rate applicable to the general purposes of the Public Health Acts.

Liabilities under Technical Instruction Acts.

The fund substituted by this provision is the fund mentioned in §33 of the Elementary Education Act, 1876, to be raised out of the poor rate of the parish or parishes comprised in the district of the urban sanitary authority, according to the rateable value of each parish. See note 4 to §18 (1) of this Act, p. 127.

(5) Section two of this Act shall apply to any balance of the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, remaining unexpended and unappropriated by any council at the appointed day.¹

§3 & §4 Vict. c. 60.

¹ Prior to the appointed day the council is at liberty to exercise a discretion as to the application of the 'residue grant' (see note 5 to §2 of this Act, p. 34), but after the appointed day the grant becomes wholly applicable to higher education under §2 of the Act. This provision leaves it open to the council to expend or appropriate, before the appointed day, the whole of their 'residue grant' for purposes other than higher education, but it directs that, where the council have not, by the appointed day, so expended or appropriated the whole of the grant, the balance shall remain exclusively applicable to higher education, and shall not be applied as prescribed by §23 of the Local Government Act, 1888.

Balance of 'residue grant.'

(6) Where the liabilities of a school board transferred to the local education authority under this Act comprise a liability on account of money advanced by that authority to the school board, the Local Government Board may make such orders as they think fit for providing for the repayment of any debts incurred by the authority for the purposes of those advances within a period fixed by the order, and, in case the money advanced to the school board has been money standing to the credit of any sinking fund or redemption fund or capital money applied under the Local Government Acts, 1888 and 1894, or either of them, for the repayment to the proper fund or account of the amount so advanced.¹

§1 & §2 Vict. c. 41. §6 & §7 Vict. c. 73.

Any order of the Local Government Board made under this provision shall have effect as if enacted in this Act.

¹ Where, as has happened in several cases, the town council of a borough, which now becomes a local education authority, have incurred debts for the purpose of advancing money to the school board, the arrangements made for the repayment of these debts has sometimes depended upon the terms upon which the school board is to repay the loan advanced by the council. Now that the council takes over this liability of a debt to itself, it may be desirable to vary the arrangements made for the purpose of repaying the debt which it had itself incurred, and this provision supplies the necessary machinery.

Existing loans by council to school board.

The persons who advanced the loan to the council appear to have no option but to accept the repayment of the loan, before the expiration of the term agreed upon, if the Local Government Board so direct.

Schedule
II. (7).56 & 57
Vict. c. 42.
62 & 63
Vict. c. 32.

(7) Where a district council ceases by reason of this Act to be a school authority within the meaning of the Elementary Education (Blind and Deaf Children) Act, 1893, or the Elementary Education (Defective and Epileptic Children) Act, 1899, any property or rights acquired and any liabilities incurred under those Acts shall be transferred to the county council,¹ and, notwithstanding anything in this Act, the county council may raise any expenses incurred by them to meet any liability of a school authority under those Acts (whether a district council or not), and transferred to the county council, off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred.²

Transfer
from
authorities
under 56 &
57 Vict. c.
42, and 62 &
63 Vict. c. 32.

¹ The local education authority acting under Part III. of this Act has throughout its area the powers and duties of a school board. The council of a county has therefore throughout its area (i.e. throughout the county except in such parts thereof as are in the area of the council of a borough or urban district which is a local education authority for the purposes of Part III. of the Act) the powers and duties of a 'school authority' under the Elementary Education (Blind and Deaf Children) Act, 1893 (p. 675), and the Elementary Education (Defective and Epileptic Children) Act, 1899 (p. 689). The bodies which cease to be 'school authorities' under those Acts by reason of the Education Act, 1902, are (a) town councils of boroughs with a population not exceeding ten thousand, (b) councils of urban districts with a population not exceeding twenty thousand, (c) all rural district councils. The expression 'district council' includes a council falling under any one of these three classes, by virtue of §21 (3) of the Local Government Act, 1894, by which it is provided that in that and every other Act of Parliament, unless the context otherwise requires, the expression 'district council' shall include the council of every urban district whether a borough or not, and of every rural district.

² This provision deals with the manner in which the county council may raise sums necessary to meet the transferred liabilities not only of such councils, but of the school boards which were school authorities under the two Acts, and had incurred liabilities under either of them. The words 'notwithstanding anything in this Act' refer primarily to §18 (1) (d), and the effect of the provision is that the council may raise the sum necessary to meet the transferred liabilities off the whole of their area, or off any parish or parishes which in the opinion of the council are served by the school in respect of which the liability has been incurred, and that where the liability is transferred from a school board the council are free to disregard the proportions specified in §18 (1) (d) as the proportions which are to be raised respectively over the whole area of the council for the purpose of Part III. of the Act, and over the school district in respect of which the liability was incurred.

These provisions do not touch the question of the area off which the future capital and current expenditure of a county council will be raised. To such expenditure the provisions of §18 (1) (b) and (c) apply.

56 & 57
Vict. c. 73.

(8) Sections eighty-five to eighty-eight of the Local Government Act, 1894 (which contain transitory provisions),¹ shall apply with respect to any transfer mentioned in this schedule, subject as follows:—

(a) References to 'the appointed day' and to 'the passing of

'this Act' shall be construed, as respects a case of **Schedule**
 relinquishment of powers and duties,² as references to **II. (8).**
 the date on which the relinquishment takes effect; and

- (b) the powers and duties of a school board or school attendance committee which is abolished, or a council which ceases under the provisions of this Act to exercise powers and duties, shall be deemed to be powers and duties transferred under this Act; and
- (c) subsections four and five of section eighty-five shall not apply.

¹ The following are the sections of the Local Government Act, 1894, referred to, the portion which is not to apply being printed in italics:—

- 85.—(1.) Every rate and precept for contributions made before the appointed day may be assessed, levied, and collected, and proceedings for the enforcement thereof taken, in like manner as nearly as may be as if this Act had not passed. Current rates, etc.
- (2.) The accounts of all receipts and expenditure before the appointed day shall be audited, and disallowances, surcharges, and penalties recovered and enforced, and other consequential proceedings had, in like manner as nearly as may be as if this Act had not passed, but as soon as practicable after the appointed day; and every authority, committee, or officer whose duty it is to make up any accounts, or to account for any portion of the receipts or expenditure in any account, shall, until the audit is completed, be deemed for the purpose of such audit to continue in office, and be bound to perform the same duties and render the same accounts and be subject to the same liabilities as before the appointed day.
- (3.) All proceedings, legal and other, commenced before the appointed day, may be carried on in like manner, as nearly as may be, as if this Act had not passed, and any such legal proceeding may be amended in such manner as may appear necessary or proper in order to bring it into conformity with the provisions of this Act.
- (4.) *Every valuation list made for a parish divided by this Act shall continue in force until a new valuation list is made.*
- (5.) *The change of name of an urban sanitary authority shall not affect their identity as a corporate body or derogate from their powers, and any enactment in any Act, whether public, general or local and personal, referring to the members of such authority shall, unless inconsistent with this Act, continue to refer to the members of such authority under its new name.*
- 86.—(1.) Nothing in this Act shall prejudicially affect any securities granted before the passing of this Act on the credit of any rate or property transferred to a council or parish meeting by this Act; and all such securities, as well as all unsecured debts, liabilities, and obligations incurred by any authority in the exercise of any powers or in relation to any property transferred from them to a council or parish meeting shall be discharged, paid, and satisfied by that council or parish meeting, and where for that purpose it is necessary to continue the levy of any rate or the exercise of any power which would have existed but for this Act, that rate may continue to be levied and that power to be exercised either by the authority who otherwise would have levied or exercised the same, or by the transferee as the case may require. Saving for existing securities and discharge of debts.
- (2.) It shall be the duty of every authority whose powers, duties, and

Schedule
II. (9).Saving for
existing
byelaws.Saving for
pending
contracts,
etc.Date of
relinquish-
ment.

liabilities are transferred by this Act to liquidate so far as practicable before the appointed day, all current debts and liabilities incurred by such authority.

87. All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.

88.—(1.) If at the time when any powers, duties, liabilities, debts, or property are by this Act transferred to a council or parish meeting, any action or proceeding, or any cause of action or proceeding is pending or existing by or against any authority in relation thereto the same shall not be in anywise prejudicially affected by the passing of this Act, but may be continued, prosecuted, and enforced by or against the council or parish meeting as successors of the said authority in like manner as if this Act had not been passed.

(2.) All contracts, deeds, bonds, agreements, and other instruments subsisting at the time of the transfer in this section mentioned, and affecting any of such powers, duties, liabilities, debts, or property, shall be of as full force and effect against or in favour of the council or parish meeting, and may be enforced as fully and effectually as if, instead of the authority, the council or parish meeting had been a party thereto.

² The cases of relinquishment of powers and duties referred to are those which may arise under §20 (b) of the Act. The date on which the relinquishment takes effect will apparently be (*see* note to that section) the date specified for that purpose in the agreement, or if no such date is specified, the date on which the agreement becomes binding.

In cases in which the local education authority has already obtained approval to a scheme under §17, before it agrees to relinquish any of its powers and duties, any necessary alteration or revocation of such scheme may be made under §21 (3).

(9) The disqualification of any persons who are, at the time of the passing of this Act, members of any council, and who will become disqualified for office in consequence of this Act, shall not, if the council so resolve,¹ take effect until a day fixed by the resolution, not being later than the next ordinary day of retirement of councillors in the case of a county council, the next ordinary day of election of councillors in the case of the council of a borough, and the fifteenth day of April in the year nineteen hundred and four in the case of an urban district council.

¹ This clause enables the council by resolution duly passed to obviate the hardship which might otherwise result to any member of a council interested in any contract with a school board which will now be taken over by the council under Schedule II. (1). The enactments respecting disqualification for membership of the various councils are referred to in note 8 to §17. The disqualifications of members of a council are not limited to those referred to in §17 (4) and in the note to it, but the other disqualifications will not usually arise 'in consequence of this Act' and therefore will not come within this clause.

(10) No election of members of a school board shall be held after the passing of this Act, and the term of office of members of any school board holding office at the passing of this Act, or

appointed to fill casual vacancies after that date, shall continue to **Schedule II (11).**
the appointed day, and the Board of Education may make orders with respect to any matter which it appears to them necessary or expedient to deal with for the purpose of carrying this provision into effect, and any order so made shall operate as if enacted in this Act.¹

¹ This clause would enable the Board of Education to deal with cases in which the prohibition of further school board elections might otherwise cause practical difficulties, *e.g.* if the number of members were reduced below the number required for a quorum. As to the appointed day *see* § 27 (2), p. 155. **Provision for failure of school board.**

(11) Where required for the purpose of bringing the accounts of a school to a close before the end of the financial year of the school,¹ or for the purpose of meeting any change consequent on this Act, the Board of Education may calculate any Parliamentary grant in respect of any month or other period less than a year,² and may pay any Parliamentary grant which has accrued before the appointed day at such times and in such manner as they think fit.³

¹ Article 20 of the Code defines 'school year,' *see* p. 573.

² The Board of Education have by letter dated the 23rd March 1903 drawn attention to the fact that §68 of the Local Government Act, 1894 (p. 177), as applied by this Act, makes adequate provision for the adjustment of all cash balances which pass to the local education authorities, to be effected by agreement between the school boards and such authorities; and have stated that therefore the school boards need not hesitate to issue their ordinary precepts or any further precepts that may be required to enable them to ensure the liquidation of all current debts and liabilities before the appointed day (*see* Local Government Act, 1888, §86 (2), p. 167). The provisions above referred to would presumably also enable adjustments to be made in respect of sums standing actually or potentially to the credit of school boards at the date of the transfer of powers, including such portion of a pending grant, *e.g.* under the Code, or the Elementary Education Act, 1897, as might be due for any period prior to the 'appointed day.'

³ *See* clause 12, *infra*.

(12) Any Parliamentary grant payable to a public elementary school not provided by a school board in respect of a period before the appointed day shall be paid to the persons who were managers of the school immediately before that day,¹ and shall be applied by them in payment of the outstanding liabilities on account of the school, and so far as not required for that purpose shall be paid to the persons who are managers of the school for the purposes of this Act² and shall be applied by them for the purposes for which provision is to be made under this Act by those managers,³ or for the benefit of any general fund applicable for those purposes;⁴ Provided that the Board of Education may, if they think fit, pay any share of the aid grant under the Voluntary Schools Act, 1897, allotted to an association of voluntary schools,⁵ to the governing body of that association, if such governing body satisfy the Board of Education that proper arrangements have been made for the application of any sum so paid.⁶

Adjustment of grants and balances.

**§0 & §1
Vict. c. 5.**

**Notes to
Schedule
II. (12).**

¹ *I.e.* to the persons who had the management of the school whether the school house is or is not vested in them (Elementary Education Act, 1870, §3, p. 196), and *see* note 1 to §6.

² *I.e.* to the body of managers appointed under this Act (§11 (6) p. 79).

³ As to the purposes for which provision is to be made by the managers, *see* note 4 to §7 (1).

⁴ As to what funds are applicable for these purposes, *see* note 14 to §7 (1), and note 2 to §13 (1).

**General
fund.**

So far as the general fund applicable for these purposes consists of voluntary subscriptions, it will be within the exemptions contained in §62 of the Charitable Trusts Act, 1853 (*see* p. 479). The purposes being permanent in their nature, viz., the keeping in repair of the schoolhouse, etc., it will be within the powers of the managers to invest their balances in a general fund in order to provide for future repairs. In the event of their desiring to apply the proceeds of such investment to such purposes they will be able to do so in so far as such proceeds represent the investment of voluntary subscriptions (*in re* Clergy Orphan Corporation, 1894, 3 Ch. 145), but the sum referred to in this clause will be held by the managers or by any body to whom they may entrust it in a fiduciary capacity, and any dealing with it after investment would have to be in accordance with such declaration of trust as had been made for the purpose.

**Allotment
to associa-
tions.**

⁵ The aid grant under the Voluntary Schools Act, 1897, was payable in respect of the year from April 1st to March 31st, and was allotted to associations according to the number of scholars in the schools of each association, and to the provisions of §1 of that Act (*see* p. 706), and had before the passing of the Act been distributed for the year ending 31st March 1903. By the preceding clause (11), the Board of Education may now calculate the grant for the purpose of meeting the change consequent on this Act in respect of any month or period less than a year, and may therefore allot to any association aid grant calculated in respect of the periods between 31st March 1903 and the various appointed days for the respective schools of the association. As this Act does not extend to London except as expressly provided, the allotment in respect of London schools will be for a full year, and the distribution will be in accordance with the former practice; but as regards all other portions of the aid grant it will be open to the governing body of any association to make any arrangements for the application of any sums which may be paid to them which the Board of Education regard as proper in view of the provisions of this Act, *e.g.* arrangements for the formation of a permanent fund to be administered for the purpose of assisting bodies of managers of schools not provided by local education authorities, and within the area for which the association was formed, to make provision for the purposes for which this Act requires them to provide, *e.g.* repairs, improvements, and alterations.

**Future
operations
of associa-
tions of
voluntary
schools.**

Consequent upon the passing of the Act the Board of Education issued a circular dealing with the future operations of associations of voluntary schools and pointing out that any alterations in the existing areas or in the powers and functions of the governing bodies would require the assent of the managers of the schools composing the association. They pointed out that the special functions of associations under the Voluntary Schools Act would not cease until the appointed day, and that where this day was later than April 1st, 1903, the governing body might be called upon to advise as to the distribution of some aid grant under the Voluntary Schools Act for the ensuing financial year, and that as an alternative the Board of Education might, if they thought fit, pay such grant direct to the governing body, if satisfied that proper arrangements had been made for its application. They added that if the governing body desired to receive such grant direct, they should prepare to submit a statement as to the proposed arrange-

ments, which should include provision for the vesting of the money in some responsible body of trustees, and for its suitable application as a fund for the benefit of the associated schools. The circular then pointed out that the aid grant payable would be the proportionate amount due for the period intervening between the beginning of the new financial year and the appointed day and proceeded as follows :—

Notes to
Schedule
II. (12).

This day may be any day not more than eighteen months later than March 26 next, as the Board of Education may appoint, and may differ in different areas. The later it is fixed the larger will be the amount of aid grant payable under the Voluntary Schools Act. In the case of the other grants the amount payable will be the full amount earned by the school between the end of the last school year and the appointed day.

Any further balances which the old managers may have in hand on the appointed day are held by them in a fiduciary capacity for the purposes of the school as a public elementary school, and should therefore be handed over to their successors to be used at their discretion for those purposes connected with the school for which provision has to be made by them under the Act. No other application of the money would be permissible without a scheme under the provisions of the Charitable Trusts Acts, which could only be made if the original purposes were no longer available—if, for instance, the school was closed or transferred to the local authority.

Managers' balances.

Even when the special functions of the governing body under the Voluntary Schools Act will have lapsed, there will still remain much valuable work that may be done by these bodies with regard to the responsibilities placed upon the managers of voluntary schools under the Act. These responsibilities are of a twofold nature. Firstly, the managers must provide the school house (other than any residence for the teacher) free of any charge to the local authority. How they do so is a matter that concerns the managers only, and will, of course, depend upon the nature of their tenure of the buildings provided. Secondly, having provided a school house free of charge the managers must, out of funds provided by them, keep it in good repair and make such alterations and improvements as may reasonably be required by the local authority. It is with regard to these duties that governing bodies can best render assistance to school managers by undertaking the administration of a common fund, of which the aid grant above referred to will form the nucleus, and in which managers can invest or deposit any further sums which may from time to time come into their possession. There will thus be created a mutual insurance fund, upon which the managers of individual schools can depend for assistance towards the expense of such repairs and alterations as they may be called upon from time to time to carry out.

Common fund for repairs and alterations.

The formation of such fund is expressly contemplated by clause 12 of Schedule II. of the Act. It is there provided that the balance of any grant paid to the original managers, which may remain after the discharge of all liabilities of whatever nature that have been incurred by them on account of the school, shall be paid to the new managers, to be applied to those purposes for which they are responsible under the Act, or for the benefit of any general fund applicable for those purposes. In the governing body of the association to which the school belongs there exists an organisation which is well adapted for the administration of such common fund, and which is expressly recognised in the clause as a body to whom any aid grant that may be due can be entrusted. It is clear, however, that the 'fund' could not be applied to the provision of new schools by building or hiring, or to such enlargements of existing ones as would come under the provisions of § 8 (2) of the Act. On the other hand, the expense of keeping the school in good repair and making necessary alterations and improvements is one which may be properly assisted out of such common fund. Such contributions may be made not only from any grants which may come into the hands of the new managers under the circumstances above referred to, but also from such voluntary subscriptions as they may from time to time obtain, and from any endowment, whether by way of rent or otherwise, to which they may be entitled. It must, however, be borne in mind that any contribution from endowment is in the nature of a deposit or an investment of a trust fund, and could only legally be made on the express understanding that the managers would be entitled to claim an amount from the common fund at least equivalent to the amount so contributed, whenever they may require it for the purposes of their trust.

The points, therefore, to which the Board of Education desire to invite the early attention of governing bodies are as follows :—

1. The submission of proposals for any alteration in the present area of the association, or in the constitution and functions of the governing body, after having consulted and obtained the consent of the managers of the associated schools.

2. Application for the direct payment of any further aid grant that may be allotted

**Schedule
II. (13).**

under the Voluntary Schools Act directly to the governing body—such application should contain a clear statement of the arrangements which it is proposed to make for its proper application.

3. The proposals, if any, of the governing body as to the creation and management of a common fund for repairs and alterations, for the benefit of all such schools belonging to the association as may desire to contribute to it.

Continuance
of associa-
tions.

⁶ Doubts have been expressed whether it is possible for the associations to make permanent arrangements on the ground that the foundation of their existence is cut away by the repeal of §1 of the Voluntary Schools Act, 1897, under which they were formed: but the basis of the existence of the association under that Act was the approval of the Board of Education to the arrangement proposed, and if the arrangement made under this clause for the application of the sum therein referred to is of a permanent nature, there seems to be no reason why the approval of the Board of Education, given before the repeal takes effect, should not form an equally valid basis for their permanent existence. See note 6 to §17 (3).

(13) Any school which has been provided by a school board or is deemed to have been so provided¹ shall be treated for the purposes of the Elementary Education Acts, 1870 to 1900, and this Act, as a school which has been provided by the local education authority, or which is deemed to have been so provided, as the case may be.

¹ The usual case in which a school is 'deemed to have been provided by a school board' is where the school has been transferred to the school board pursuant to an arrangement under §23 of the Elementary Education Act, 1870 (p. 223).

Use of coun-
cil school
out of school
hours.

In *Cheshire v. School Board for West Bromwich* (*Times*, 6th Dec. 1878) the plaintiff applied on behalf of himself and all other ratepayers to restrain the school board from allowing a political meeting to be held in the schools provided by them out of school hours on the grounds that they were bound to use the schools for school purposes only and that there was danger of damage being done. Jeasel M. R. refused to make an interim order and stated that he considered that 'the plaintiff's pecuniary interest in the matter' was not sufficient to entitle the court to interfere except by information 'at the suit of the Attorney-General,' and further that 'even if there were any damage done to the structure the members of the school board would be liable personally if they had been parties to an illegal use of the school, and in the next place the persons hiring the school would be responsible, and it would only be in case of the inability of all these persons to pay for the damage that the burden would fall on the rates.'

(14) The local education authority shall be entitled to use¹ for the purposes of the school any school furniture and apparatus belonging to the trustees or managers of any public elementary school not provided by a school board, and in use for the purposes of the school before the appointed day.

Use of
furniture in
voluntary
school.

¹ This clause does not effect any change of the property in the furniture, and from a comparison of the words in this clause with the words used in §7 (1) (d) it may be inferred that it does not compel the owners to provide the furniture free of any charge, nor preclude them from asking a rent for the use of it. Where the owners are the trustees or managers of a public elementary school it precludes them from refusing to allow the use of the furniture or apparatus, and in cases where the furniture or apparatus has been bought out of a Parliamentary grant, the local education authority may be entitled to the use of it without payment. In other cases

the owners will be entitled to a reasonable sum in respect of the use, which **Schedule II. (15).** will be limited by the fact that the clause prevents it from being permanently diverted to another purpose. Were the clause construed to mean that the furniture in use became school furniture which could be used free of any charge, the result would be that the owners who had paid for the furniture without any aid from a Parliamentary grant might be liable under §7 (2) to pay in respect of the use of it out of school hours while the local education authority would be entitled to the use of it in school hours and for three days a week out of school hours without any payment at all. A construction which would produce this result would not be justified where the words more naturally bear another meaning.

(15) During the period between the passing of this Act and the appointed day, the managers of any public elementary school, whether provided by a school board or not, and any school attendance committee, shall furnish to the council, which will on the appointed day become the local education authority, such information as that council¹ may reasonably require.

¹ As only one council is referred to it is presumably the council which will be the local education authority for the purpose of Part III. of the Act, unless and until that council, if a non-county borough or urban district council, shall have relinquished its powers under §20 (b).

(16) The officers of any authority¹ whose property, rights, and liabilities are transferred under this Act to any council shall be transferred to and become the officers of that council, but that council may abolish the office² of any such officer whose office they deem unnecessary.

¹ By clause (1) above the property, rights, and liabilities of any school board or school attendance committee are transferred to the council exercising the powers of the school board, and accordingly the officers of any school board or school attendance committee will be transferred to and become the officers of that council. In the case of a school attendance committee of a district where there is no school board the words 'the council exercising the powers of the school board' must presumably be read as meaning the council exercising such powers as a school board would have had in the area of the school attendance committee, if there had been a school board in that area. **Transfer of officers.**

² 'An office is a right to exercise a public or private employment, and to take the fees and emoluments belonging to it.' (Cruises Digest III. 2, 92). **'Office'**

(17) Every officer so transferred shall hold his office by the same tenure¹ and on the same terms and conditions as before the transfer, and while performing the same duties shall receive not less salary or remuneration than theretofore, but if any such officer is required to perform duties which are not analogous to or which are an unreasonable addition to those which he is required to perform at the date of the transfer, he may relinquish his office, and any officer who so relinquishes his office, or whose office is abolished, shall be entitled to compensation under this Act.

¹ §35 of the Elementary Education Act, 1870, provided that a school board might appoint a clerk and a treasurer and other necessary officers including the teachers required for any school provided by such board to

Schedule II. (18).Appoint-
ment of
officers.

hold office during the pleasure of the board, and Schedule III. 7 of that Act provided that the appointment of any officer might be made by minute. The words during the pleasure of the board, apparently give a power to dismiss without reason assigned, and it was held in the case of *Hayman v. Governors of Rugby School* (L. R. 18, Eq. 28) where the head-master was removable at the will and pleasure of the trustees or the major part of them, that the trustees might remove him without notice and without any reason being assigned and that they were unfettered by the rules and regulations of their predecessors by whom he had been appointed. See also *R. v. Darlington School Governors* (6 Q. B. 682) in which case the governors had power to make byelaws, and it was held that a bye-law requiring cause for dismissal to be shown, and thereby limiting the discretion given to the governors by the charter to remove the master was invalid, and that he might be removed without summons or hearing and although no charge had been exhibited against him.

Tenure of
office.

Similar words are used in §189 of the Public Health Act, 1875, to the effect that, subject to the provisions of that section, every officer and servant appointed under that Act shall be removable by the urban authority at their pleasure, and in consequence of these words the court has, in cases where they occur, refused to grant a rule for a *quo warranto* (see *parte Richards*, 3 Q. B. D. 368) on the ground that if the applicant were replaced in office he might immediately be dismissed again.

It is suggested in Lumley's *Public Health*, p. 286, that possibly the power to dismiss at pleasure may be provided against by express contract but that such contract must be under seal, but having regard to the express words of §35 quoted above it is at least doubtful whether such a contract would be *intra vires* in relation to an appointment by a school board under that section. Even, however, when an office is held during pleasure the authority assessing compensation is not bound to consider only the legal tenure (*R. v. Mayor of Norwich*, 8 A. and E. 633), and accordingly an officer of a school board will be entitled to compensation if he can show that he suffers direct pecuniary loss by abolition of his office in consequence of the Act, but in assessing such compensation regard will be had to the conditions on which the appointment was made (see §120 (1) of the Local Government Act, 1888, p. 176, *infra*) including the above-mentioned provision of §35.

With regard to the officers of a school attendance committee it is provided by §34 of the Elementary Education Act, 1876 (see p. 299) that all enactments relating to guardians and their officers shall, subject to the express provisions of that Act, apply as if the guardians including the school attendance committee appointed by them and their officers were acting under the Acts relating to the relief of the poor. Accordingly the Poor Law Officers Superannuation Act, 1896, applied to officers of the school attendance committee (see §19 of that Act) and will continue to apply (see clause (19), *infra*) after the transfer.

(18) A council may, if they think fit, take into account continuous service under any school boards¹ or school attendance committees in order to calculate the total period of service of any officer entitled to compensation under this Act.

Aggregation
of service.

¹ If the service under school boards or school attendance committees has been continuous, the school boards or school attendance committees prior to the last under which it was rendered, need not have been within the area of the local education authority. In cases coming within the Poor Law Officers Superannuation Act, 1896, §3 provides that all service whether continuous or not shall be aggregated.

59 and 60
Act. c. 50.

(19) If an officer of any authority to which the Poor Law Officers' Superannuation Act, 1896,¹ applies is under this Act

transferred to any council, and has made the annual contributions required to be made under that Act, the provisions of that Act shall apply, subject to such modifications as the Local Government Board may by order direct for the purpose of making that Act applicable to the case. Schedule II. (19).

¹ That Act applies (*see* note to clause 17, *supra*) to all officers of school attendance committees. Poor Law Officers' Superannuation Act.

The Act also by §14 applies to the managers of district schools, and to their officers and servants.

By §19 of that Act :—

- “ ‘Officer’ includes every officer in the service of an authority to whom
- “ the Act applies, whether his whole time is devoted to the duties
- “ of his office or not ;
- “ ‘Servant’ includes every servant regularly employed at wages by
- “ any such authority as aforesaid.”

(20) Any local education authority who have established any pension scheme, or scheme for the superannuation of their officers,¹ may admit to the benefits of that scheme any officers transferred under this Act on such terms and conditions as they think fit.

¹ The authorities which become local education authorities have not had power conferred on them by any general public Act to establish pension schemes or schemes for superannuation, but in various private Acts and Charters such powers have been given to particular councils, and in such cases the council will have power to admit any officers transferred, and to make such terms and conditions in respect of such admission as will prevent injustice to the persons already entitled to the benefits of the scheme. Admission to pension scheme.

As to the pension or other allowance payable to certificated teachers in public elementary schools, *see* Article 130 of the Code (p. 598), and the Elementary School Teachers (Superannuation) Act, 1898 (p. 713).

(21) Section one hundred and twenty of the Local Government Act, 1888,¹ which relates to compensation to existing officers, shall apply as respects officers transferred under this Act, and also (with the necessary modifications) to any other officers who, by virtue of this Act or anything done in pursuance or in consequence of this Act, suffer direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, in like manner as it applies to officers transferred under this Act, subject as follows :— §1 & §2 Vict. c. 41.

- (a) Any reference in that section to the county council shall include a reference to a borough or urban district council ; and
- (b) references in that section to ‘ the passing of this Act ’² shall be construed, as respects a case of relinquishment of powers and duties, as references to the date on which the relinquishment takes effect ; and
- (c) any reference to powers transferred shall be construed as a reference to property transferred ; and

Schedule
II. (21).

Compensation on
abolition of
office.

- (d) any expenses shall be paid out of the fund or rate out of which the expenses of a council under this Act are paid, and, if any compensation is payable otherwise than by way of an annual sum, the payment of that compensation shall be a purpose for which a council may borrow for the purposes of this Act.

¹ Section 120 of the Local Government Act, 1888, is as follows :—

Section 120 (1) Every existing officer declared by this Act to be entitled to compensation, and every other existing officer, whether before-mentioned in this Act or not, who by virtue of this Act, or anything done in pursuance of or in consequence of this Act, suffers any direct pecuniary loss by abolition of office or by diminution or loss of fees or salary, shall be entitled to have compensation paid to him for such pecuniary loss by the county council, to whom the powers of the authority, whose officer he was, are transferred under this Act, regard being had to the conditions on which his appointment was made, to the nature of his office or employment, to the duration of his service, to any additional emoluments which he acquires by virtue of this Act or of anything done in pursuance of or in consequence of this Act, and to the emoluments which he might have acquired if he had not refused to accept any office offered by any council or other body acting under this Act, and to all the other circumstances of the case, and the compensation shall not exceed the amount which, under the Acts and Rules relating to Her Majesty's Civil Service,¹ is paid to a person on abolition of office.

- (2) Every person who is entitled to compensation, as above-mentioned, shall deliver to the county council a claim under his hand setting forth the whole amount received and expended by him or his predecessors in office, in every year during the period of five years next before the passing of this Act, on account of the emoluments for which he claims compensation, distinguishing the offices in respect of which the same have been received, and accompanied by a statutory declaration under the Statutory Declaration Act, 1835, that the same is a true statement according to the best of his knowledge, information, and belief.
- (3) Such statement shall be submitted to the county council, who shall forthwith take the same into consideration, and assess the just amount of compensation (if any), and shall forthwith inform the claimant of their decision.
- (4) If a claimant is aggrieved by the refusal of the county council to grant any compensation, or by the amount of compensation assessed, or if not less than one third of the members of such council subscribe a protest against the amount of the compensation as being excessive, the

¹ The Superannuation Act, 1859, regulates the award of compensation to Civil Servants on abolition of office and provides (§7) that the annual allowance shall not, unless granted by special minute, exceed the amount to which such person would have been entitled under the scale of superannuation provided by that Act, if ten years were added to the number of years which he has served. The scale so provided is ten-sixtieths of the salary and emoluments to a person who has served ten years or upwards, and an addition of one-sixtieth for every year up to forty years, and no such allowance is to exceed two-thirds of the salary and emoluments of the office. In calculating such allowance the Treasury act in accordance with a minute which enunciates their practice, but this is not a 'rule' within the section, and in *R. v. Stepney Corporation* (1902, 1 K. B. 317) it was held that as the Corporation in assessing compensation had merely followed this practice, they had not exercised their discretion, and that therefore the occasion for an appeal to the Treasury under subsection (4) had not arrived, and a mandamus was granted ordering them to assess the compensation.

claimant or any subscriber to such protest (as the case may be) may, **Schedule II (22).** within three months after the decision of the council, appeal to the Treasury, who shall consider the case and determine whether any compensation, and if so, what amount ought to be granted to the claimant, and such determination shall be final.

- (5) Any claimant under this section, if so required by any member of the county council, shall attend at a meeting of the council and answer upon oath, which any justice present may administer, all questions asked by any member of the council touching the matters set forth in his claim, and shall further produce all books, papers, and documents in his possession or under his control relating to such claim.
- (6) The sum payable as compensation to any person in pursuance of this section shall commence to be payable at the date fixed by the council on granting the compensation, or, in case of appeal, by the Treasury, and shall be a specialty debt due to him from the county council, and may be enforced accordingly in like manner as if the council had entered into a bond to pay the same.
- (7) If a person receiving compensation in pursuance of this section is appointed to any office under the name of any other county council, or by virtue of this Act, or anything done in pursuance of or in consequence of this Act, receives any increase of emoluments of the office held by him, he shall not, while receiving the emoluments of that office, receive any greater amount of his compensation, if any, than, with the emoluments of the said office, is equal to the emoluments for which compensation was granted to him, and if the emoluments of the office he holds are equal to or greater than the emoluments for which compensation was granted, his compensation shall be suspended while he holds such office.
- (8) All expenses incurred by a county council in pursuance of this section shall be paid out of the county fund, as a payment for general county purposes.

² The five years to which the account of receipts and expenditure required by §120 (2) are to relate will apparently in general be the five years preceding December 18th, 1902, and not the five years preceding the appointed day, while in a case of relinquishment under §20 (b) of this Act, it will be the five years preceding the date of, or specified in, the agreement to relinquish.

When a sanitary authority ordered a school to be closed on account of illness and the managers, pursuant to an article in the Code which said that they must comply with such an order, closed the school, it was held that a claim for loss of fees by the master could not be sustained under the Public Health Act, 1875, as the power to close was given by the Code and not by the Act (*Roberts v. Falmouth Sanitary Authority*, 52 J. P. 741).

(22) Section sixty-eight of the Local Government Act, 1894 ^{56 & 57} (which relates to the adjustment of property and liabilities), shall ^{Vict. c. 73.} apply with respect to any adjustment required for the purposes of this Act.

The following is the section referred to :—

Section 68 (1) Where any adjustment is required for the purpose of this ^{Adjustment.} Act, or of any order, or thing made or done under this Act, then if the adjustment is not otherwise made, the authorities interested may make agreements for the purpose, and may thereby adjust any property, income, debts, liabilities, and expenses, so far as affected by this act, or such scheme, order, or thing of the parties to the agreement.

- (2) The agreement may provide for the transfer or retention of any property, debts, or liabilities, with or without any conditions, and

**Schedule
III.**

for the joint use of any property, and for payment by either party to the agreement in respect of property, debts, and liabilities so transferred or retained, or of such joint user, and in respect of the salary or remuneration of any officer or person, and that either by way of an annual payment or, except in the case of a salary or remuneration, by way of a capital sum, or of a terminable annuity for a period not exceeding that allowed by the Local Government Board: Provided that where any of the authorities interested is a board of guardians, any such agreement, so far as it relates to the joint use of any property, shall be subject to the approval of the Local Government Board.

- (3) In default of an agreement, and as far as any such agreement does not extend, such adjustment shall be referred to arbitration in accordance with the Arbitration Act, 1889, and the arbitrator shall have power to disallow as costs in the arbitration the costs of any witness whom he considers to have been called unnecessarily, and any other costs which he considers to have been incurred unnecessarily, and his award may provide for any matter for which an agreement might have provided.
- (4) Any sum required to be paid by any authority for the purpose of adjustment may be paid as part of the general expenses of exercising their duties under this act, or out of such special fund as the authority, with the approval of the Local Government Board, direct, and if it is a capital sum the payment thereof shall be a purpose for which the authority may borrow under the Acts relating to such authority, on the security of all or any of the funds, rates, and revenues of the authority, and any such sum may be borrowed without the consent of any authority, so that it be repaid within such period as the Local Government Board may sanction.
- (5) Any capital sum paid to any authority for the purpose of any adjustment under this Act shall be treated as capital, and applied, with the sanction of the Local Government Board, either in the repayment of debt or for any other purpose for which capital money may be applied.

THIRD SCHEDULE.*

MODIFICATION OF ACTS, ETC.

(1) References¹ to school boards² and school districts shall be construed as references to local education authorities and the areas for which they act, except as respects transactions before the appointed day, and except that in paragraph (2) of section nineteen of the Elementary Education Act, 1876,³ and in subsection (1) of section two of the Education Code (1890) Act, 1890,³ references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

39 & 40
Vict. c. 19.
53 & 54
Vict. c. 22.

* This Schedule is governed by §25 (2) of the Act, which provides that in the application of the Elementary Education Acts, 1870 to 1900, and other provisions referred to in the Schedule, the modifications specified in the Schedule shall have effect.

Accordingly throughout this Schedule, where no other provisions than the Elementary Education Acts, 1870 to 1900, are referred to, the reference must be understood to be a reference to those Acts. The restriction of the effect of the Schedule, thus construed, is assented by the provisions contained in §10 of the Schedule.

¹ See the note to the heading of this Schedule.

² It is not necessary to make provision for references occurring in the Elementary Education Acts, 1870 to 1900, to school attendance committees, as all such references are repealed by this Act.

**Schedule
III. (2).**

References
to 'school
boards.'

³ For §19 of the Elementary Education Act, 1876, see p. 291, and for §2 of the Education Code (1890) Act, 1890, see p. 315.

The sections referred to provided for the payment of special grants to schools when the population (1) of the 'school district' in which the school was situated, or (2) within two miles of the school, did not exceed certain specified limits (see Articles 104 and 105 of the Day School Code (p. 591)). The effect of the exceptions made in the case of these sections (which is confined to cases falling under the former head) is that, when a school district comprised more than one parish, it will in future be the population of the parish and not of the school district upon which the eligibility of the school to receive the special grant will depend.

The exceptions are made only 'as respects the area of a local education authority being the council of a county.' The grants in question were originally intended for schools in sparsely populated districts, and this restriction will prevent the operation of the exceptions in the case of any school in a borough or urban district which may happen to be situated in a parish of which the population is within the specified limit.

Where a united school district extends into the area of two local education authorities for which different days have been appointed for the purposes of Part III. of the Act, the school board continues to exist till the later of these days with functions contracted to that part of their old area which has not yet come under the Act.

(2) References¹ to the school fund or local rate shall be construed as references to the fund or rate out of which the expenses of the local education authority are payable.

'School
fund.'

¹ See the note to the heading of this Schedule.

(3) In section thirty-eight of the Elementary Education Act, 1876,¹ references to members of a school board shall be construed as references to members of the education committee, or of any sub-committee appointed by that committee for school attendance purposes.

'Members
of school
board.'

¹ For §38 of the Elementary Education Act, 1876, see p. 300.

(4) The power of making byelaws shall (where the local education authority is a county council) include a power of making different byelaws for different parts of the area of the authority.¹

Power of
making
byelaws.

¹ As to the power of making byelaws, see §74 of the Elementary Education Act, 1870, and the notes thereon (p. 246).

For the model form of byelaws, and the continuance of existing byelaws made by any school board or school attendance committee until revoked by the local education authority, see the Appendix to the Elementary Education Act, 1900 (p. 331), and §87 of the Local Government Act, 1888 (p. 168).

There cannot be a case of a borough, whether county or non-county, in which different byelaws will be in force at the appointed day under this Act. There may, however, be such cases when different parishes are included in the area of the council of an urban district other than a borough which becomes a local education authority. In these cases the local education authority when making new byelaws will not be empowered by this provision to make different byelaws for different parts of their area.

Schedule
III. (5).54 & 55
Vict. c. 56.

(5) The following provision shall have effect in lieu of section five of the Elementary Education Act, 1891 :

‘The duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.’

Duty to
provide
accommoda-
tion.

Section 5 of the Elementary Education Act, 1891 (p. 321), gave power to the Education Department to enforce, by means of the ordinary machinery of the Elementary Education Act, 1870, the supply of a sufficient amount of public school accommodation without payment of fees, whenever they were satisfied that the supply of such accommodation in any school district, or any part of a school district, was insufficient.

The section further provided that the expression ‘public school accommodation’ in the last-mentioned Act should include public school accommodation without payment of fees.

As to the duty of the local education authority to supply a sufficient amount of public school accommodation, *see* §6 of this Schedule, *infra*, and the note thereon.

33 & 34
Vict. c. 75

(6) The words ‘in the opinion of the Board of Education’ shall be substituted for the words ‘in their opinion’ in the first paragraph of section eighteen of the Elementary Education Act, 1870.

For §18 of the Elementary Education Act, 1870, *see* p. 208.

Provision of
additional
accommoda-
tion.

The effect of this substitution, taken in conjunction with the substitutions for ‘school board’ and ‘school district’ made by rule (1) of this schedule is that the provision of the above-mentioned section to which reference is made, must now be read :—

‘The local education authority shall from time to time provide such additional school accommodation as is, in the opinion of the Board of Education, necessary in order to supply a sufficient amount of public school accommodation for the area for which they act.’

The duty imposed by this provision, which is not expressly imposed upon a school board by the Elementary Education Acts, 1870 to 1900, or upon a local education authority by any other provision of this Act, is referred to as the duty of the local education authority to provide a sufficient amount of public school accommodation under the Education Acts, 1870 to 1902, in the preceding section of this schedule.

(7) Section ninety-nine of the Elementary Education Act, 1870,¹ shall apply to the fulfilment of any conditions, the performance of any duties,² and the exercise of any powers under this Act as it applies to the fulfilment of conditions required in pursuance of that Act to be fulfilled in order to obtain a Parliamentary grant.³

Power of
Trustees to
fulfil con-
ditions of
grant.

¹ This section provides (*see* p. 258) that the managers of every elementary school shall have power to fulfil the conditions required in pursuance of that Act to be fulfilled in order to obtain a Parliamentary grant notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and accordingly the managers of any elementary school will have power to fulfil any conditions, perform any duties, and exercise any powers under this Act notwithstanding any such provision.

² Thus a manager appointed pursuant to §6 (2) (a) or (b) will have

power to perform the duties and exercise the powers of a manager conferred upon him by this Act notwithstanding any provision contained in any instrument regulating the management of the school, *e.g.*, a provision that all managers should belong to a particular denomination. Schedule III. (8).

³ The effect of the fulfilment of these conditions was that the school in question was a public elementary school.

(8) A reference to the provisions of this Act as to borrowing shall be substituted in section fifteen of the Elementary Education Act, 1876, for the reference to section ten of the Elementary Education Act, 1873, and a reference to the Local Government Board shall be substituted for the second reference in that section to the Education Department,¹ and also for the reference to the Education Department in section five of the Elementary Education (Blind and Deaf Children) Act, 1893.² 36 & 37
Vict. c. 86.

56 & 57
Vict. c. 42.

¹ For the effect of this provision on §15 of the Elementary Education Act, 1876, *see* the note to that section (p. 288).

² The effect of this provision is that the sanction of the Local Government Board will be required to the exercise by a local education authority of the power of borrowing under the Elementary Education (Defective and Epileptic Children) Act, 1899, as well as under the Blind and Deaf Children Act of 1893.

(9) A reference to the provisions of this Act relating to the enforcement of the performance of the local education authority's duties by mandamus shall be substituted in section two of the Elementary Education Act, 1880,¹ for the reference to section twenty-seven of the Elementary Education Act, 1876. 43 & 44
Vict. c. 23.

39 & 40
Vict. c. 79.

¹ The provisions of this section (*see* p. 311) are to the effect that if in any school district there are no byelaws respecting school attendance in force, the Board of Education might either proceed under §27 of the Elementary Education Act, 1876 (*see* p. 295), which relates to a local authority who fail to fulfil their duty under that Act, or might themselves make byelaws to have effect and be enforced and be subject to alteration and addition as if made by the local authority and sanctioned by the Board of Education. Enforcement
of duties.

The procedure under §27 of the Elementary Education Act, 1876, was, if the authority was a school board, to proceed as if such school board were in default under §§63 to 66 of the Elementary Education Act, 1870, and, if the authority was not a school board, to appoint persons for a specified period not exceeding two years to perform the duty of the defaulting committee. For this procedure the provisions of §16 of this Act are now substituted, as to which *see* notes to that section (p. 104), and it will still also be open to the Board of Education to themselves make the byelaws (if that course is preferable), in accordance with the provisions of the said twenty-seventh section.

(10) The substitutions for school boards, school districts, school fund, and local rate¹ made by this schedule shall, unless the context otherwise requires, be made in any enactment referring to or

Schedule
III. (11).

applying the Elementary Education Act, 1870 to 1900, or any of them, so far as the reference or application extends.

¹ The substitutions for school boards and school districts are made by clause 1 of this Schedule and the substitutions for school fund and local rate are made by clause 2, but these clauses relate only to the application of the Elementary Education Acts, 1870 to 1900, and this clause extends the modifications to any Act referring to or applying any of these Acts so far as the reference or application extends.

52 & 53
Vict. c. 76.
54 & 55
Vict. c. 4.

(11) References in any enactment or in any provision of a scheme made under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, or the Elementary Education Acts, 1870 to 1900, to any provisions of the Technical Instruction Acts, 1889 and 1891,¹ or either of those Acts shall, unless the context otherwise requires, be construed as references to the provisions of Part II. of this Act, and the provisions of this Act shall apply with respect to any school, college, or hostel established, and to any obligation incurred, under the Technical Instruction Acts, 1889 and 1891, as if the school, college, or hostel had been established or the obligation incurred under Part II. of this Act.

References
to Technical
Instruction
Acts.

¹ The provisions of the Technical Instruction Acts, 1889 and 1891 (*see* pp. 349, 356), are (1) that subject to the restrictions therein named a 'local authority' may supply or aid the supply of technical or manual instruction, (2) may appoint a committee for the purposes of the Act, (3) may institute examinations, (4) may if a county council charge any expenses incurred on any part of their county for which they were incurred, (5) may borrow as specified in the Act, (6) may if a county council set aside any part of the 'whisky money' for technical education. For these provisions, Part II. of the Act has substituted the provisions giving general powers to the local education authority to supply or aid the supply of education other than elementary, and to apply any part of the 'whisky money' for the purpose; and has provided by §2 (2) that they shall have regard to any steps already taken for the purposes of higher education under the Technical Instruction Acts. It has been suggested that the result of this clause will be that the Technical and Industrial Institutions Act, 1892 (*see* p. 360) will by virtue of §2 apply to every institution established for the purpose of giving higher education within the meaning of Part II. of this Act, and this suggestion is supported by the Table giving the effect of legislation annexed to the Statutes for 1903, which names §2 of that Act as amended by this Schedule, but the above analysis of the provisions for which substitution is made does not appear to support such a conclusion.

It has been the practice of the Charity Commissioners, and, since the transfer of powers, of the Board of Education to insert in schemes a clause in the following terms:—

'There shall be added to the governing body such additional representative governors, if any, as may be appointed for the purposes of the 'Technical Instruction Act, 1889, by a local authority under that 'Act.'

The intention of this clause was to secure that any additional representatives of the local authority required from time to time to comply with the provisions of the Technical Instruction Act, 1889 (§1 (1) (e) of that Act, p. 350), might be automatically constituted governors for all purposes, and not merely for the purposes of the Act, without need for further amendment of the scheme. Inasmuch, however, as the 'provisions' of §1 (1) (e) of the Act

relative to such appointment are not repeated in the Education Act, 1902, **Schedule III. (12).** it would seem that a reference to the last-mentioned Act cannot be substituted by virtue of the present clause (Schedule III. (11)) for the reference to the Technical Instruction Act, and that the provision set out above will now cease to be operative. In cases, therefore, where it may be desirable that a council having powers under Part II. of the Act should appoint representatives upon the governing body of an endowed school in consideration of a grant made to the school by the council, it will be necessary to make the required provision by means of an amendment of the scheme, and it will be possible for the Board of Education to settle, or to reserve a power of settling, the amount of such representation by means of a provision in the amending scheme.

(12) The Local Government Board may, after consultation with the Board of Education, by order make such adaptations in the provisions of any local Act (including any Act to confirm a Provisional Order¹ and any scheme under the Municipal Corporations Act, 1882,² as amended by any subsequent Act) as may seem to them to be necessary to make those provisions conform with the provisions of this Act, and may also in like manner, on the application of any council who have power as to education under this Act and have also powers as to education under any local Act, make such modifications in the local Act as will enable the powers under that Act to be exercised as if they were powers under this Act. **45 & 46 Vict. c. 50.**

Any order made under this provision shall operate as if enacted in this Act.

¹ As to provisional orders, *see* notes to §21 (p. 141).

When the boundaries of a borough for which there was a school board have been extended so as to include an area sufficiently supplied with public school accommodation in schools not provided by a school board, it has frequently been provided that the added area shall be exempt from any rate levied to defray the expenses of the school board of the borough until additional public school accommodation shall be required in such area and shall have been provided by the school board. In view of the provisions of the Education Act, 1902, the added area cannot (*see* §18), nor would it be equitable that it should (*see* §7 (1)), be exempt from the rate levied to defray the expenses of the town council under Part III. of the Act ; but the present clause provides a means whereby the added area can continue to be exempted from any payment on account of the loans raised by the school board, in cases where such exemption appears to be equitable. **Adaptations of Local Acts.**

² Part XI. of the Municipal Corporations Act, 1882, relates to the granting of charters, and provides that where a petition for a charter is presented, creating and extending the Act to a municipal borough, the committee of the Privy Council to whom the petition is referred may settle a scheme for the adjustment of the powers, etc., of any existing local authority whose district comprised the whole or part of the area of that borough either with or without any adjoining or other plan, and also of any officer of that authority. By subsection (6) of that section it was provided that 'local authority' for the purpose of that part of the Act should mean, *inter alia*, any authority not in that section excepted and not being a school board, and having powers of local government and of rating for public purposes. This exception of a school board was repealed and replaced by the following provisions of the School Boards Act, 1885 :— **Adjustment of powers.** **School Boards Act 1885.**

(1) The words 'and not being a school board' in subsection six of section two hundred and thirteen of the Municipal Corporations Act are hereby repealed ;

**Schedule
IV.**School
Boards Act
1885.

A scheme under that section if affecting a school board—

- (a) shall before being settled by the committee of council be referred to the consideration of the Education Department; and
- (b) shall not place the new borough under more than one school board; and
- (c) may provide for the continuance of any byelaws in force at the date of the scheme.

(2) Where within seven years before the passing of this Act a charter has extended the Municipal Corporations Act, 1882, or the Acts thereby consolidated to the municipal borough created by the charter, any scheme relating to a school board which might have been made under the said Acts if this Act had passed at the date of the said charter may be made after the passing of this Act, and Part XI. of the Municipal Corporations Act, 1882, shall apply accordingly: Provided that—

- (a) such scheme may be made on the petition either of the council of the said borough or of the persons who composed the school board, or any of them; and
- (b) the council of the borough may petition against such scheme in accordance with subsection four of section two hundred and thirteen of the Municipal Corporations Act, 1882; and
- (c) any such scheme may validate any acts done by the Education Department or the school board or the council of the borough or any justice since the date of the charter.

(3.) This section shall be in addition to and not in derogation of any powers in relation to school boards for the time being vested in the committee of the lords of the Privy Council on education (who are in this section referred to as the Education Department).

FOURTH SCHEDULE.**ENACTMENTS REPEALED.*****PART I.**

	Session and Chapter.	Short Title.	Extent of Repeal.
Repeals.	52 & 53 Vict. c. 76.	The Technical Instruction Act, 1889.	The whole Act.
	53 & 54 Vict. c. 60.	The Local Taxation (Customs and Excise) Act, 1890.	In section one, subsections two and three.
	54 & 55 Vict. c. 4.	The Technical Instruction Act, 1891.	The whole Act.

Effect of
Repeals.

* It is provided by the Interpretation Act, 1889, §38 (2), that where that Act or any Act passed after the commencement of that Act repeals any other enactment, then, unless the contrary intention appears, the repeal shall not—

- (a) revive anything not in force or existing at the time at which the repeal takes effect; or
- (b) affect the previous operation of any enactment so repealed or anything duly done or suffered under any enactment so repealed; or
- (c) affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any enactment so repealed; or
- (d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment so repealed; or
- (e) affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid;

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture, or punishment may be imposed, as if the repealing Act had not been passed.

PART II.

Schedule
IV.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	Section four; section five except so far as it defines public school accommodation; section six; sections eight to thirteen; sections fifteen and sixteen; section eighteen from 'If at any time' to the end of the section; in section nineteen the words 'whether in obedience to any requisition or not'; sections twenty-nine to thirty-four; in section thirty-five the words 'a clerk and a treasurer and 'other' and the words from 'but no such 'appointment' to 'member of the board'; sections forty to forty-eight; sections forty-nine to fifty-one; in section fifty-two the words 'under the provisions of this Act with respect to the appointment of a body of 'managers'; sections fifty-three to fifty-six; sections sixty to sixty-six; in section sixty-nine the words 'in the metropolis' and the words from 'appointed under this Act' to 'returns under this Act'; in section seventy-three the words 'of the school district' the words from '(if any) or if' to 'inquiry relates,' and the words 'or if there is no school board as a debt due from the rating 'authority'; sections seventy-seven and seventy-nine; sections eighty-seven, eighty-eight, and ninety; section ninety-three; the first proviso of section ninety-seven; the First Schedule; the Second Schedule, except the Third Part; the Third Schedule.
36 & 37 Vict. c. 86.	The Elementary Education Act, 1873.	Sections five to twelve; sections seventeen and eighteen; sections twenty-one and twenty-six; the First Schedule; the Second Schedule; the Third Schedule.
37 & 38 Vict. c. 90.	The Elementary Education (Orders) Act, 1874.	The whole Act.
39 & 40 Vict. c. 79.	The Elementary Education Act, 1876.	Section seven, from 'and (2) in every' to 'appointing the committee,' and the words 'and school attendance committee'; in section fifteen the words 'not exceeding fifty'; section twenty-one; section twenty-three to 'or pay any fees'; section twenty-seven; in section twenty-eight, the words 'but subject in the case of a school attendance committee 'to the approval hereinafter mentioned' and the words 'or the officers of the council or 'guardians by whom the committee are 'appointed'; sections thirty, thirty-one, thirty-two, thirty-three (except as applied by this Act), and thirty-four; section thirty-six; in section thirty-seven the words 'or 'local authority'; in section thirty-eight the words 'or local authority' and 'or 'school attendance committee'; sections forty-one, forty-two, forty-three, and forty-four; section forty-nine; the Second Schedule; the Third Schedule.

**Schedule
IV.**
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Repeals.

Session and Chapter.	Short Title.	Extent of Repeal.
43 & 44 Vict. c. 23.	The Elementary Education Act, 1880.	Section three.
53 & 54 Vict. c. 22.	The Education Code (1890) Act, 1890.	Section one.
54 & 55 Vict. c. 56.	The Elementary Education Act, 1891.	Sections five, six, and seven.
56 & 57 Vict. c. 42.	The Elementary Education (Blind and Deaf Children) Act, 1893.	Section four from '(b) for an area' to the end of the section. Subsections (3) and (4) of section five. Section six.
59 & 60 Vict. c. 16.	The Agricultural Rates Act, 1896.	In section seven the words 'a school board for 'a school district which is a parish or,' and subsection (3).
60 & 61 Vict. c. 5.	The Voluntary Schools Act, 1897.	Section one.
60 & 61 Vict. c. 16.	The Elementary Education Act, 1897.	The whole Act.
62 & 63 Vict. c. 32.	The Elementary Education (De- fective and Epi- leptic Children) Act, 1899.	In section six the proviso.
63 & 64 Vict. c. 53.	The Elementary Education Act, 1900.	Section three.

DIVISION II.

**THE PRINCIPAL ELEMENTARY EDUCATION ACTS,
1870 TO 1900, AND THE TECHNICAL INSTRUCTION ACTS.**

DIVISION II.

THE PRINCIPAL ELEMENTARY EDUCATION ACTS,
1870 TO 1900, AND THE TECHNICAL INSTRUCTION ACTS.¹

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¹ For other Acts included in the title 'Elementary Education Acts, 1870 to 1900,' see Division IV., pp. 675, 689, 711.

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33 & 34 Victoria, Chap. 75.

AN ACT to provide for public Elementary Education in England and Wales. [9th August 1870.]

*Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows; (that is to say)*¹

¹ Repealed by the Statute Law Revision (No. 2) Act, 1893.

PRELIMINARY.

Short Title.

1. This Act may be cited as 'The Elementary Education Act, 1870.'¹

¹ Under §27 (4) of the Education Act, 1902, *ante*, the Elementary Education Acts, 1870 to 1900, and that Act may be cited as the Education Acts, 1870 to 1902.

For the Acts which may be cited as the Elementary Education Acts, 1870 to 1900, see the note to §24 (1) of the Education Act, 1902.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Definition of Terms.

3. In this Act—¹

The term 'metropolis' means the places for the time being within the jurisdiction of the Metropolitan Board of Works under the Metropolis Management Act, 1855:²

The term 'borough' means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled 'An Act to provide for the regulation of municipal corporations in England and Wales,'³ and the Acts amending the same:

The term 'parish' means a place for which for the time being a separate poor rate is or can be made:⁴

The term 'person' includes a body corporate :

*The term 'Education Department' means 'the Lords of the Committee of the 'Privy Council on Education':*⁵

The term 'Her Majesty's inspectors' means the inspectors of schools appointed by Her Majesty on the recommendation of the Education Department :⁵

The term 'managers' includes all persons who have the management of any elementary school, whether the legal interest in the schoolhouse is or is not vested in them :⁶

The term 'teacher' includes assistant teacher, pupil teacher, sewing mistress, and every person who forms part of the educational staff of a school :

The term 'parent' includes guardian and every person who is liable to maintain or has the actual custody of any child :⁷

The term 'elementary school' means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction, from each scholar, exceed ninepence a week :⁸

The term 'schoolhouse' includes the teacher's dwelling-house, and the playground (if any) and the offices and all premises belonging to or required for a school :⁹

The term 'vestry' means the ratepayers of a parish meeting in vestry according to law :

The term 'ratepayer' includes every person who, under the provisions of the Poor Rate Assessment and Collection Act, 1869, is deemed to be duly rated :

The term 'parliamentary grant' means a grant made in aid of an elementary school, either annually or otherwise, out of moneys provided by Parliament for the civil service, intituled 'For public education in Great Britain.'

¹ It is provided by §24 (1) of the Education Act, 1902, *ante*, that in that Act, unless the context otherwise requires, any expression to which a special meaning is attached in the Elementary Education Acts, 1870 to 1900, shall have the same meaning in that Act.

² The Education Act, 1902, does not extend, except as expressly provided therein, to London. See §27 (1) of that Act and the note thereon.

³ This Act is now repealed and replaced by the Municipal Corporations Act, 1882 (45 & 46 Vict., c. 50), by §242 (1) and Schedule IX. of which a reference to that Act is to be substituted for the reference to 5 & 6 Will. IV. c. 76, and the Acts amending it.

⁴ The definition of 'parish' is repealed by the Statute Law Revision (No. 2) Act, 1893, a similar definition having been supplied by §5 of the Interpretation Act, 1889.

The importance of the definition is greatly lessened by the provisions of the Education Act, 1902. Except in the Metropolis, in boroughs, in united school districts, and in certain exceptional cases, specified in the Act, or arising from the provisions of later Acts relating to local government, the 'parish' was the unit of area, technically termed the 'school district,' for the purposes of the Elementary Education Acts. Under §1 of the Education Act, 1902 (p. 26) the county or county borough becomes, except as provided in that section, the unit of area. Certain liabilities,

however, are still attached to parishes and school districts, as such, by §18 (1) (c) and (d) of the Education Act, 1902 (pp. 123 and 124).

⁵ This definition is repealed by the Statute Law Revision (No. 2) Act, 1893, a similar definition having been supplied by §12 of the Interpretation Act, 1889. *See*, however, the Board of Education Act, 1899 (p. 391), and the notes thereon.

⁶ It is to be noticed that this is not strictly a definition of the word 'Manager,' but is confined to stating that the term 'includes' all persons who have the management of any elementary school. The uses of the word in the Act of 1902 are dealt with at p. 44.

⁷ For the obligation of the parent with regard to his child's attendance at school, *see* the note to §4 of the Elementary Education Act, 1876 (p. 260).

The fact that there is, in any particular case of a child's non-attendance at school, some person, other than the parent, having the actual custody of the child, does not prevent the operation of the word 'parent' in its primary and obvious sense, where there is also a person who comes under that description (*L. S. B. v. Jackson*, 7 Q. B. D., 502).

⁸ The term 'elementary education' is nowhere defined in the Education Acts; but the questions what is and what is not included in the term have been elaborately considered by the Courts of Kings Bench and of Appeal in the case of *R. v. Cockerton*, L. R., 1901, 1 Q. B., p. 322 and p. 726 (*see* p. 364). The Master of the Rolls pointed out that the object and meaning of this clause were to select out of the voluntary schools, which were in existence before 1870, those which had these two attributes, namely, that the principal part of the education was elementary, and that the scholars paid no more than 9d. each, a week, and to include them amongst elementary schools; and that no inference could be drawn from the wording of the clause that education which was not elementary could be given at the expense of the ratepayers in the schools created pursuant to the Act. After carefully reviewing the rest of the Act, the Court came to the conclusion that it dealt with elementary education, that it could not be said with truth that it dealt with any education other than the elementary education of children, and that there was nothing in the subsequent Elementary Education Acts nor in the Technical Instruction Act, 1889, which conflicted with that view. The Court accordingly decided that it was not within the powers of a school board as a statutory corporation to provide science and art schools or classes of the kind referred to in the case, either in the day schools or in evening continuation schools, out of the school board rate or school fund. The decision in this particular case was to some extent based on the fact that for many years after 1870 science and art schools and classes had been solely controlled by the Science and Art Department, which was distinct from the Education Department, and dealt by its Directory with a system of education which might be of a much more advanced character than was possible under the Education Department's Code for public elementary schools. This distinction is now no longer in existence, the two Departments having been combined into one by §2 of the Board of Education Act, 1899 (*see* p. 392). But the questions what is and what is not elementary education will remain of great importance owing to the provisions contained in §§2, 3, 5, and 22 of the Education Act, 1902 (*see* note 1 to the last-named section); and it is therefore deserving of notice that while Mr. Justice Wills in the King's Bench Division refused to fix any definite boundary, on the ground that 'elementary education' is obviously a term that may shift with the growth of general instruction and attainment, the Master of the Rolls in the Court of Appeal in effect laid down a superior limit by describing the Day School Code as embracing elementary education up to its high-water mark.

It is provided by §22 (1) of the Education Act, 1902, that in that Act and in the Elementary Education Acts the expression 'elementary school' shall not include any school carried on as an evening school under the regulations of the Board of Education.

For the limits fixed by that Act to the power to provide instruction under the Elementary Education Acts, *see* §22 (2) of the Act, and the note thereon, *ante*.

⁹ *See* the notes to §7 (1) (d) of the Education Act, 1902 (p. 55), and to §2 of the School Sites Act, 1841 (p. 536).

(I.) LOCAL PROVISION FOR SCHOOLS.

School Districts, etc., in Schedule.

4. *For the purposes of this Act the respective districts, boards, rates and funds, and authorities described in the first schedule to this Act shall be the school district, the school board, the local rate, and the rating authority.*¹

¹ This section, and the schedule to which it refers, are repealed by the Education Act, 1902, which establishes a different system of areas, authorities, and finance. See §§1 and 18, and Schedule III. (1) and (2) of that Act (pp. 26 and 123, 178 and 179).

SUPPLY OF SCHOOLS.

School District to have sufficient Public Schools.

5. *There shall be provided for every school district a sufficient amount of accommodation in public elementary schools (as herein-after defined) available for all the children resident in such district for whose elementary education efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as "public school accommodation," the deficiency shall be supplied in manner provided by this Act.*¹

¹ This section is repealed by the Education Act, 1902 (see Schedule IV. to that Act, p. 185), 'except so far as it defines public school accommodation.' The effect of these words appears to be that the meaning of the term 'public school accommodation,' which is implied in this section, is to be attached to that term wherever it is used in the Elementary Education Acts, 1870 to 1900, and in the Education Act, 1902.

The definition so implied appears to be as follows: Public school accommodation in this Act means accommodation in public elementary schools (as hereinafter—i.e. in §7—defined).

See also §16, and Schedule III. (5) and (6) of the Education Act, 1902, and the notes thereon.

Supply of Schools in case of Deficiency.

6. *Where the Education Department, in the manner provided by this Act, are satisfied and have given public notice that there is an insufficient amount of public school accommodation for any school district, and the deficiency is not supplied as herein-after required, a school board shall be formed for such district, and shall supply such deficiency, and in case of default by the school board the Education Department shall cause the duty of such board to be performed in manner provided by this Act.*¹

¹ This section, and §§8 to 13, are repealed by the Education Act, 1902. The repealed sections provided for the formation of school boards for the purpose of making good deficiencies in the supply of public school accommodation. They also, taken in conjunction with §§63 to 66, also now repealed, gave power to the Education Department to compel the school board to provide such accommodation as the Department might deem to be necessary. The Education Act, 1902, transfers the powers of school boards to the new local education authorities constituted under that Act (see §5, p. 39), creates other machinery for the provision of new schools (see §§8 and 9, pp. 71 and 73), and substitutes (see §16) a different procedure for cases where the local education authority fail to supply the necessary public school accommodation.

Regulations for Conduct of Public Elementary School.

7. Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act: and every public elementary school shall be conducted in accordance with the following regulations (a copy of which regulations shall be conspicuously put up in every such school) namely,¹

- (1.) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school, or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere,² from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs:
- (2.) The time or times during which any religious observance is practised or instruction in religious subjects is given at any meeting of the school shall be either at the beginning or at the end or at the beginning and the end of such meeting, and shall be inserted in a time-table³ to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every school-room; and any scholar may be withdrawn by his parent⁴ from such observance or instruction without forfeiting any of the other benefits of the school:⁵
- (3.) The school shall be open at all times to the inspection of any of Her Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge or in any religious subject or book:
- (4.) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.

¹ This section is generally known as 'the Conscience Clause,' and its provisions are applicable to all public elementary schools, whether provided, or not provided, by the local education authority. Further restrictions regarding the religious instruction in public elementary schools provided by the local education authority are contained in §14 (2) of the Act, p. 205.

The conscience clause does not apply to the day or days, not exceeding two in any one year, which may be fixed by the managers of a public elementary school not provided by a local education authority for the examination or inspection in religious or other subjects, by an inspector other than one of His Majesty's inspectors. See §76, p. 251.

² The words 'or elsewhere,' contemplate that some of the religious instruction of the school may be given, or some observance practised, in other premises—for example, in the church.

³ With regard to the time or times for religious instruction or observance, §7 (1)(a) of the Education Act, 1902, provides that no directions of the local education

authority as to the secular instruction to be given in a school not provided by themselves shall be such as to interfere with reasonable facilities for religious instruction during school hours.

The Board of Education have stated that the time-table should show not only the time of religious observance or religious instruction (separately stated) from day to day, but also the date and hours when the children are to be taken to attend such instruction or observance elsewhere than in the school premises.

⁴ For the meaning which may be attached to the term 'parent,' see §3, p. 196.

⁵ The manner in which the 'withdrawal' by the parent is to be made is not prescribed; the course usually followed is for the parent to communicate his desire that the child shall be withdrawn, either to the head-teacher in person, or by a letter sent to the correspondent of the managers of the school.

The following general regulations and instructions have been issued by the Education Department (now the Board of Education), with regard to the provisions of this section :—

Minute of the 7th February 1871 :—Resolved :—

1. That the time-table of each public elementary school shall be submitted to the inspector of the district, at his first visit to the school after the 30th of April 1871.

2. That the inspector shall enter on every time-table which fulfils the requisite conditions, 'approved on behalf of the Education Department,' with his signature and the date of his visit.

3. That the inspector may approve any time-table which, while conforming to §7 (2) of the Education Act, in respect of the time or times appointed for religious observances or instruction, sets apart for instruction in secular subjects at least two consecutive hours at each morning and afternoon meeting, and one hour and a half at each evening meeting of the school.

4. That the inspector shall not express any opinion as to the time or times appointed for religious observances or instruction, or as to the nature of such instruction, but shall confine himself to seeing that the prescribed amount of time is secured for secular instruction.

5. That before signing the time-table the inspector shall satisfy himself—

(1.) That a copy of the regulations contained in §7 of the Education Act is conspicuously put up in the school.

(2.) That the time-table is printed, or written, in distinct characters, and that sufficient copies of it are provided to be put up in every school-room.

(3.) That, if the school premises admit of it, the children withdrawn by their parents from religious observances or instruction receive, by themselves, instruction in secular subjects during the time or times set apart for religious instruction or observances.

6. That the inspector, at any visit which he pays to a school without notice, shall report to the Education Department if he finds that the work of the school is not being carried on according to the approved time-table, or that the time-table itself is not exhibited in every school-room.

7. That if any five parents or guardians of scholars for the time being attending a school make complaint in writing to the Education Department that a time-table, approved by the inspector, is not in accordance with this minute, the Education Department, on receiving such complaint, shall make such inquiry and order in the matter as they may think fit.

8. That copies of this minute be forwarded for their information and guidance to Her Majesty's Inspectors of Schools.

Extract from Circular to H. M. Inspectors of the 31st May 1871 : I am directed to remind you that before approving a time-table under the minute of 7th February 1871 you must ascertain that it conforms to §7 of the Elementary Education Act.

This is all that is essential in order that you should affix your signature.

To prevent any misunderstanding on this point, I am to request that you will enter on time-tables which satisfy the prescribed conditions, 'approved on behalf of the Education Department as fulfilling the requirements of §7 of the Elementary Education Act, 1870.'

Circular to H. M. Inspectors of the 10th August 1872 :—

1. My Lords are frequently asked whether, and, if so, under what circumstances, the managers of a school may allow a time-table which has been approved by Her Majesty's inspector to be departed from in the daily work of a school.

2. So far as a time-table sets forth, as required by §7 of the Education Act, the time or times to be devoted to instructions in *religious subjects*, no change may be made without the express sanction of the inspector. This sanction ought not to be given, in the course of a school year, except upon formal application from the managers, nor unless strong grounds for the change are shown. The parents of scholars attending a public elementary school ought to know for certain at what time or times they may withdraw their children, if they wish to do so.

3. Any neglect of this division of the time-table will entail a forfeiture of grants, the loss will fall upon the managers, and they must, therefore, see carefully and constantly to this point.

4. So far as the distribution of the time devoted to *secular instruction* is concerned the case is different; as the approval by the Education Department required under §7 (2) of the Elementary Education Act does not apply to such distribution of time. A time-table, however, for all subjects taught, is necessary, to secure order and regularity in the daily work of a school, and when once settled ought to be adhered to. It otherwise ceases to be of any use for the information of the parents, or to be a guide to the inspector in forming his judgment of a teacher, or in examining a school.

5. The managers should therefore arrange with the inspector at his yearly visit what the time-table for the ensuing year is to be; if they allow the teacher to alter it permanently during the school year a special note of the change allowed should be made, by the correspondent, in the log-book; and a copy of the table, as corrected, ought to be at once put up in the school.

6. Occasional deviations from the table may be allowed without so formal a record, but they also should be noted by the teacher in the log-book; if frequently resorted to without good reason they must be regarded as a proof of the teacher's inefficiency, and may cause the grant to be reduced.

7. The inspector will therefore read the sixth paragraph of the minute of 7th February 1871, as referring to the time-table, so far as it has been approved under §7 of the Education Act; but so far as the hours of secular instruction are concerned, he will note in the log-book, for the information of the managers, every case in which he finds a school not being taught according to the ordinary time-table, unless there is a record in the said log-book of the reason why the order of instruction set forth in the time-table has not been observed.

Extract from Circular to H. M. Inspectors of the 16th January 1878: It should never be forgotten that a child withdrawn from the whole or part of the religious teaching or observances of a school, should in no way be subjected to disparaging treatment on account of his parent having thought fit to avail himself of his statutory right in this matter. But, on the other hand, in your communication respecting the arrangements of the time-tables, you will remember that you have no right to interfere in any way with the liberty allowed by statute to managers of providing for religious teaching and observances at the beginning and end of the two daily school meetings. In your allusions to this subject and to the conscience clause, you will be most careful not to lead managers or teachers to suppose that the complete provision which has now been made by the legislature for protecting the rights of conscience, as an essential part of a system of compulsory attendance, and the limitation of the necessary examination by Her Majesty's inspectors to secular subjects, imply that the State is indifferent to the moral character of the schools, or in any way unfriendly to religious teaching.

Circular to H. M. Inspectors of the 13th January 1874 (Time-table in Transferred Schools): A considerable number of schools have been, and are in course of being, transferred to school boards under §23 of the Elementary Education Act of 1870.

A question having recently arisen in one of these cases, with respect to which there appears to be some misunderstanding, I am directed to request you to look carefully to §§7, 14, and 23 of the Act of 1870, and to bear in mind the following points when you examine the time-table of a transferred school.

1. The last paragraph of §23 prescribes that 'every school so transferred shall, to such extent and during such times as the school board have, under such arrangement, any control over the school, be deemed to be a school provided by the school board.'

2. During the time in which a school board have the control over any premises, the school which they carry on in such premises is accordingly a school provided by the school board. 'No religious catechism or religious formulary which is distinctive of any particular denomination' can, therefore, be taught in that time, and no time-table should be approved under which the instruction given in the school so provided extends to catechisms or formularies forbidden by the Act.

3. If, under the transfer, the trustees, or former managers, retain for any time the control of the premises, the purposes to which these premises are to be put, during such time, are not allowed to be stated in the arrangement for the transfer, as the Education Department have no jurisdiction in the matter.

4. You will, therefore, in the case of a school transferred to a school board, take care that the time-table is limited to the hours during which the board have control over the school premises, and that it does not refer either to any time during which the school premises are *not* under the control of the board, or to any instruction given during such time.

5. If a school has been transferred in the interval between two visits of inspection, you will be careful to see that the school board, as the new managers, submit a new time-table suited to the altered constitution of the school.

Minute of the 2nd April 1878, modifying the Minute of the 7th February 1871 :— Resolved—(1) That the time-table of each public elementary school shall be submitted to the inspector of the district at every visit he pays to the school. (2) That the inspector may approve any time-table which, while conforming to §7 (2) of the Elementary Education Act, 1870, in respect of the time or times appointed for religious observances or instruction, sets apart at each meeting of a school, for the instruction in secular subjects of each class or division of the school, at least the amount of time prescribed by the Code. (3(a)) Provided that at each meeting of a school instruction in secular subjects is continuously given for the prescribed time, by or under the personal supervision of the principal teacher, and that there is a class-room attached to the school, a time-table may be approved which provides for religious instruction (in accordance with the provisions of §7, and in board schools of §14 (2), of the Act of 1870), being given in the class room to separate classes or divisions of the school, either at the beginning or end of the meeting; and the time of secular instruction need not be the same for the whole school. (3(b)) If there is no class-room attached to a school, the time for secular instruction must be the same for the whole school.

It is to be borne in mind that many of the detailed arrangements contemplated in the foregoing instructions are now subject to modification, owing to the fact that the inspector's annual visit of examination has been abandoned in favour of visits of inspection paid without notice at irregular intervals. See Art. 22 of the Code, p. 574, and the note under the head 'Reports of Inspectors' in the Prefatory Memorandum to the Code.

The Board of Education have stated that they do not consider that this section enables any lesson to be given from the Bible during the hours fixed for secular instruction.

With regard to the question whether the parent of a child withdrawn from religious instruction who absents himself from school during the time for that instruction, even though separate secular instruction is provided for him, is liable to prosecution and conviction under the byelaws, on the ground that such child does not attend during the whole time the school is open, the Board of Education have stated that the question can only be decided by the magistrates, in the event of a prosecution being instituted.

As to the right of the parent to inspect the time-table, see Article 79 of the Day School Code, p. 583.

Under §7 of the Elementary Education Act, 1876 (p. 282), and §5 of the Education Act, 1902 (p. 39), it is the duty of the local education authority to report to the Board of Education any infraction of the provisions of this section in any public elementary school within their district which may come to their knowledge, and also to forward to the Board of Education any complaint which they may receive of the infraction of those provisions. This duty would appear to exist independently of, and in addition to, the rights and duties of the local education authority under §7 of the Education Act, 1902.

The further conditions required to be fulfilled by an elementary school in order to obtain an annual Parliamentary grant are those set forth in the Day School Code (p. 569). See especially Articles 76 *et seqq.* of the Code.

It is further provided by §7 (4) (p. 65) of the Education Act, 1902, that one of the conditions required to be fulfilled by an elementary school in order to obtain a Parliamentary grant shall be that it is maintained under and complies with the provisions of that section. See the note to subsection 4 of that section, p. 65.

PROCEEDINGS FOR SUPPLY OF SCHOOLS.

Determination by Education Department of deficiency of Public School accommodation.

8. *For the purpose of determining with respect to every school district the amount of public school accommodation, if any, required for such district the Education Department shall, immediately after the passing of this Act, cause such returns to be made as in this Act mentioned, and on receiving those returns, and after such inquiry, if any, as they think necessary, shall consider whether any and what public school accommodation is required for such district, and in so doing they shall take into consideration every school, whether public, elementary or not, and whether actually situated in the school district or not, which in their opinion gives, or will when completed give, efficient elementary education to, and is, or will when completed be, suitable for the children of such district.*¹

¹ Sections 8 to 13 are repealed by the Education Act, 1902. See the note to §6, *supra*.

Notice by Education Department of Public School accommodation required.

9. *The Education Department shall publish a notice of their decision as to the public school accommodation for any school district, setting forth with respect to such district the description thereof, the number, size, and description of the schools (if any) available for such district, which the Education Department have taken into consideration as above mentioned, and the amount and description of the public school accommodation, if any, which appears to them to be required for the district, and any other particulars which the Education Department think expedient.*

If any persons being either—

(1.) *Ratepayers of the district, not less than ten, or if less than ten being rated to the poor rate upon a rateable value of not less than one-third of the whole rateable value of the district, or,*

(2.) *The managers of any elementary school in the district, feel aggrieved by such decision, such persons may, within one month after the publication of the notice, apply in writing to the Education Department for and the Education Department shall direct the holding of a public inquiry in manner provided by this Act.*

At any time after the expiration of such month, if no public inquiry is directed, or after the receipt of the report made after such inquiry, as the case may be, the Education Department may, if they think that the amount of public school accommodation for the district is insufficient, publish a final notice stating the same particulars as were contained in the former notice, with such modifications (if any) as they think fit to make, and directing that the public school accommodation therein mentioned as required be supplied.

Formation of School Board and requisition to provide Schools.

10. *If after the expiration of a time, not exceeding six months, to be limited by the final notice, the Education Department are satisfied that all the public school accommodation required by the final notice to be supplied has not been so supplied, nor is in course of being supplied with due despatch, the Education Department shall cause a school board to be formed for the district as provided in this Act, and shall send a requisition to the school board so formed requiring them to take proceedings forthwith for supplying the public school accommodation mentioned in the requisition, and the school board shall supply the same accordingly.*

Proceedings on default of School Boards.

11. *If the school board fail to comply with the requisition within twelve months after the sending of such requisition in manner aforesaid, they shall be deemed to be in default, and if the Education Department are satisfied that such board are in default they may proceed in manner directed by this Act with respect to a school board in default.*

Formation of School Boards without inquiry upon Application.

12. *In the following cases (that is to say),*

- (1.) *Where application¹ is made to the Education Department with respect to any school district by the persons who, if there were a school board in that district, would elect the school board, or with respect to any borough, by the council;*
- (2.) *Where the Education Department are satisfied that the managers of any elementary school in any school district are unable or unwilling any longer to maintain such school, and that if the school is discontinued the amount of public school accommodation for such district will be insufficient,*

the Education Department may, if they think fit, without making the inquiry or publishing the notices required by this Act before the formation of a school board, but after such inquiry, public or other, and such notice as the Education Depart-

ment think sufficient, cause a school board to be formed for such district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice.

An application for the purposes of this section may be made by a resolution passed by the said electing body after notice published at least a week previously, or by the council, and the provisions of the second part of the second schedule to this Act with respect to the passing of such resolution shall be observed.

¹ The power of applying for the formation of a school board, which is given by subsection 1 of this section, was in rural parishes transferred by §52 (2) of the Local Government Act, 1894, from the ratepayers to the parish meeting.

Proceedings by Education Department after the first year.

13. After the receipt of any returns under this Act subsequently to the first with respect to any school district, and after such inquiry as the Education Department think necessary, the Education Department shall consider whether any and what public school accommodation is required in such district in the same manner as in the case of the first returns under this Act, and where in such district there is no school board acting under this Act they may issue notices and take proceedings in the same manner as they may after the receipt of the first returns under this Act, and where there is a school board in such district they shall proceed in manner directed by this Act.¹

¹ See the note to §6 (p. 198).

MANAGEMENT AND MAINTENANCE OF SCHOOLS BY SCHOOL BOARD.

Management of Schools by School Board.

14. Every school provided by a school board ¹ shall be conducted under the control and management ² of such board in accordance with the following regulations :

- (1.) The school shall be a public elementary school within the meaning of this Act :
- (2.) No religious catechism or religious formulary which is distinctive of any particular denomination shall be taught in the school.

¹ The conditions prescribed in this section are applicable, in virtue of §5 of the Education Act, 1902, to all schools provided by local education authorities under Part III. of that Act.

² For provisions as to the 'management' of public elementary schools provided by the local education authority, see §6 (1) of the Education Act, 1902 (p. 44).

The effect of subsection (1) is that the school must be conducted in accordance with §7 of this Act, and with the conditions required to be fulfilled by an elementary school in order to obtain an annual Parliamentary grant, that is to say, the conditions contained in the Day School Code (p. 569).

Subsection (2) is generally known as 'the Cowper-Temple clause.' It is not prescribed that religious instruction is, or is not, to be given in a public elementary school provided by a local education authority, but that, if any is given, it must be undenominational in character.

From a return made to an order of the House of Lords in 1894, relative to religious instruction in board schools, it appeared from the replies of eight school boards that the doctrinal portions of the Church Catechism were taught, and that the schools had not been transferred to the boards with any reservation for that purpose. The Education Department accordingly called for an explanation as to the apparent inconsistency in the practice of these boards with the provisions contained in this subsection, forbidding the teaching in schools provided by a school board of any religious catechism or religious formulary which is distinctive of any particular denomination. Seven of the school boards, pleading inadvertence and, expressing regret, immediately amended their practice, but one board replied as follows :—

In reply to your inquiry contained in your letter dated 24th January, I beg to inform you that the whole of the children attending our school are of Church of England parents. No complaint or objection from any source, by reason of the Church Catechism being added to the religious instruction given in our school, has ever been raised; but, on the contrary, has been, and is, acceptable and appreciated. If any occasion to its discontinuance had presented itself, the school board would most certainly have given attention to it.

The Department thereupon wrote the following letter to this school board :—

Adverting to your letter of 26th January 1895, I am directed to explain to you that the question is not whether the instruction in the Church Catechism is complained of or objected to, but whether the regulations of §14 of the Elementary Education Act, 1870 (the Cowper-Temple Clause), have been complied with. That section, you will observe, prohibits the teaching of the Church Catechism in board schools, whether complained of or not. §16 of the same Act gives their Lordships power, if a school board fail to comply with the regulations in question, to declare the school board in default. I am therefore to request that your board at its next meeting will pass a formal regulation in conformity with the prohibition of §14 of the Act, and will communicate the terms of such regulation to this Department.

The following letter was received by the Department in reply :—

I beg to inform your Lordships that at a meeting held on 30th March last, the correspondence relating to religious instruction was laid before them, and a resolution passed, 'That, in accordance with the requirements contained therein, 'in future the teaching of the Church Catechism be wholly discontinued and 'dropped,' and that a copy of such resolution be given to the school-mistress. This has been adhered to.

The regulations of the school board for London with regard to Bible instruction and religious observances in the schools provided by them are as follows :—

In the schools provided by the board the Bible shall be read and there shall be given such explanations and such instruction therefrom in the principles of the Christian religion and of morality as are suited to the capacities of children, provided always—

- (i.) That in such explanations and instructions the provisions of the Elementary Education Act, 1870, in §§7 and 14 be strictly observed, both in letter and spirit, and that no attempt be made in any such schools to attach children to any particular denomination.
- (ii.) That, in regard to any particular school, the board shall consider and determine upon any application by managers, parents, or ratepayers, of the district who may show special cause for exception of the school from the operation of this resolution, in whole or in part.

Such explanations and instruction as are recognised by the foregoing regulation shall be given by the responsible teachers of the school.

In this article the term 'responsible teachers' does not include pupil-teachers, except those of the last two years of apprenticeship who, under special circumstances and under the supervision of the head-teachers, are allowed to give Scripture lessons.

In all schools provision may be made for giving effect to the following resolutions of the board, passed on July 26th, 1871 :—

- (i.) That, in accordance with the general practice of existing elementary schools, provision may be made for offering prayer and using hymns in schools provided by the board at the 'time or times' when, according to §7, sub-section 2, of the Elementary Education Act, 'religious observances' may be 'practised.'
- (ii.) That the arrangements for such 'religious observances' be left to the discretion of the teacher and managers of each school, with the right of appeal to the board by teacher, managers, parents, or ratepayers of the district :

Provided always :—

That in the offering of any prayers, and in the use of any hymns, the provisions of the Act in §§7 and 14 be strictly observed, both in letter and spirit, and that no attempt be made to attach children to any particular denomination.

During the time of religious teaching or religious observance, any children withdrawn from such teaching or observance shall receive separate instruction in secular subjects.

The question whether the school board have done or permitted any act in contravention of, or have failed to comply with, the regulations contained in this section (that is to say, the question whether what has been taught constitutes a religious catechism or religious formulary which is distinctive of any particular denomination), was, under §16 of this Act, to be referred in case of dispute to the Education Department, whose decision was to be final. That section is, however, repealed by the Education Act, 1902. As to the remedies in case a local education authority shall do or permit any act in contravention of, or shall fail to comply with the regulations contained in §14 of this Act, see §16 of that Act, and the notes thereto.

In a case in which a dispute arose under §16 of this Act, the Board of Education decided, after taking the opinion of the law officers of the Crown, that the teaching of the Apostles' Creed was not an act in contravention of the regulations, but that the teaching of that part of the Church Catechism known as 'the Duties' was an act in contravention of the regulations.

Appointment of Managers by School Board.

15. The school board may, if they think fit, from time to time delegate any of their powers under this Act except the power of raising money, and in particular may delegate the control and management of any school provided by them, with or without any conditions or restrictions, to a body of managers appointed by them, consisting of not less than three persons.

The school board may from time to time remove all or any of such managers, and within the limits allowed by this section add to or diminish the number of or otherwise alter the constitution or powers of any body of managers formed by it under this section.

Any manager appointed under this section may resign on giving written notice to the board. The rules contained in the third schedule to this Act respecting the proceedings of bodies of managers appointed by a school board shall be observed.¹

¹ This section is repealed by the Education Act, 1902, and the provisions of that Act with respect to the management of public elementary schools provided by a local education authority are contained in §6 (1) and Schedule I. B (p. 44 and p. 160).

Neglect by Board of regulations of Public Elementary Schools.

16. If the school board do or permit any act in contravention of or fail to comply with the regulations according to which a school provided by them is

required by this Act to be conducted, the Education Department may declare the school board to be and such board shall accordingly be deemed to be a board in default, and the Education Department may proceed accordingly, and every act or omission of any member of the school board, or manager appointed by them, or any person under the control of the board, shall be deemed to be permitted by the board, unless the contrary be proved.

*If any dispute arises as to whether the school board have done or permitted any act in contravention of or have failed to comply with the said regulations, the matter shall be referred to the Education Department, whose decision thereon shall be final.*¹

¹ See the last two paragraphs of the note to §14, *supra*.

Fees of Children.

17. Every child attending a school provided by any school board shall pay such weekly fee as may be prescribed by the school board with the consent of the Education Department, but the school board may from time to time, for a renewable period not exceeding six months, remit the whole or any part of such fee in the case of any child when they are of opinion that the parent of such child is unable from poverty to pay the same, but such remission shall not be deemed to be parochial relief given to such parent.¹

¹ This section, though not repealed, has been rendered virtually inoperative in almost all parts of the country in consequence of the provisions of the Elementary Education Act, 1891 (p. 317). It is provided by §8 of that Act (p. 322) that nothing in §17 of the Elementary Education Act, 1870, shall prevent a school board from admitting scholars to any school provided by the board without requiring any fee.

Maintenance by School Board of Schools and sufficient School Accommodation.

18. The school board shall maintain and keep efficient every school provided by such board, and shall from time to time provide such additional school accommodation as is, *in their opinion*,¹ necessary in order to supply a sufficient amount of public school accommodation for their district.²

A school board may discontinue any school provided by them, or change the site of any such school, if they satisfy the Education Department that the school to be discontinued is unnecessary, or that such change of site is expedient.

If at any time the Education Department are satisfied that a school board have failed to perform their duty, either by not maintaining or keeping efficient every school provided by them, or by not providing such additional school accommodation as in the opinion of the Education Department is necessary in order to supply a sufficient amount of public school accommodation in their district, the Education Department may send them a requisition requiring them to fulfil the duty which they have so failed to perform; and if the school board fail within the time limited by such requisition, not being less than three months, to comply therewith to the

*satisfaction of the Education Department, such board shall be deemed to be a school board in default, and the Education Department may proceed accordingly.*³

¹ By Schedule III. (6) of the Education Act, 1902, the words 'in the opinion of the Board of Education' are substituted for the words 'in their opinion' in the first paragraph of this section.

² The powers and duties of school boards under the first two paragraphs of this section are, by the Education Act, 1902, transferred, with modifications, to the local education authorities constituted under that Act. See, in particular, for the maintenance, provision, and necessity, of schools, §§7, 8, and 9 respectively, pp. 48 to 73.

³ The last paragraph of the section is repealed by the Education Act, 1902, §16 of which Act provides a substituted remedy for the failure of the local education to fulfil their duty under the first paragraph of the section, as amended by that Act.

The Education Act, 1902, Schedule III. (5), provides that the duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation, shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.

Powers of School Board for providing Schools.

19. Every school board for the purpose of providing sufficient public school accommodation for their district, *whether in obedience to any requisition or not*,¹ may provide, by building or otherwise, schoolhouses² properly fitted up, and improve, enlarge, and fit up any schoolhouse provided by them, and supply school apparatus and everything necessary for the efficiency of the schools provided by them, and purchase and take on lease any land, and any right over land, or may exercise any of such powers.³

¹ The words 'whether in obedience to any requisition or not' are repealed by the Education Act, 1902. See the notes to §18, *supra*, and to §16 of the Education Act, 1902.

² For the meaning of the term 'schoolhouse,' see §3 of this Act, *supra*, and cf. §7 (1) (d) of the Education Act, 1902.

³ This section, read with §5 and Schedule III. (1) of the Education Act, 1902, gives a general power to local education authorities to acquire, by purchase or lease, land, rights over land, and premises, for the purpose of providing sufficient public school accommodation for the area for which they act, from persons willing to dispose, or under no disability preventing them from disposing, thereof. The Lands Clauses Acts, which are incorporated with this Act by §20, and the provisions of §23 of this Act, give further powers for the same purpose in certain cases where the powers given by §19 are insufficient. As to the existing powers of county councils to acquire land, for the purpose of any of their powers and duties, see note 9 to §1 of the Education Act, 1902 (p. 29).

The sale or lease of school premises to a local education authority, for use as a public elementary school, appears to be a transfer within the meaning of subsection (3) of §8 of the Education Act, 1902 (p. 71), and must therefore for the purposes of that section be treated as the provision of a new school.

The consent of the Board of Education was not required to the exercise by school boards of their powers under this section. The Board were, however, in practice able to exercise an effective control through the powers which they possessed of refusing to sanction loans (Elementary Education Act, 1873, §10), and of refusing annual grants to a school on the ground that it was unnecessary (Elementary Education Act, 1870, §98, and Article 80 of the Day School Code, p. 583), or that the planning was unsatisfactory (Article 85 (a) of the Code, p. 584).

A school board was rateable to the relief of the poor in respect of all public elementary schools occupied by them whether they were owners or lessees thereof (*West Bromwich School Board v. Overseers of West Bromwich*, 13 Q. B. D. 929; *Chorlton upon Medlock Overseers v. Guardians of Chorlton Union*, 51 L. J., Q. B. 458), and in

assessing the value of the premises occupied the school board, although it could make no profit, was to be considered as a possible tenant, and the gross and rateable values were to be calculated by the rent which the school board might reasonably be expected to pay for the premises for use as schools (*R. v. School Board for London*, 17 Q. B. D. 738).

Compulsory Purchase of Sites.¹

20. With respect to the purchase of land by school boards for the purposes of this Act the following provisions shall have effect; (that is to say,)

Regulations as to the Purchase of Land compulsorily.

- (1.) The Lands Clauses Consolidation Act, 1845, and the Acts amending the same, shall be incorporated with this Act, except the provisions relating to access to the special Act; and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act,² and the promoters of the undertaking shall be construed to mean the school board, and land shall be construed to include any right over land:
- (2.) The school board, before putting in force any of the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, shall—

Publication of Notices.

- (a.) Publish, during three consecutive weeks in the months of October and November, or either of them, a notice describing shortly the object for which the land is proposed to be taken, naming a place where a plan of the land proposed to be taken may be seen at all reasonable hours, and stating the quantity of land that they require; and shall further,

Service of Notices.

- (b.) After such publication, serve a notice in manner mentioned in this section on every owner or reputed owner, lessee or reputed lessee, and occupier of such land, defining in each case the particular land intended to be taken, and requiring an answer stating whether the person so served assents, dissents, or is neuter in respect of taking such land;
- (c.) Such notice shall be served—
 - (a.) By delivery of the same personally on the person required to be served, or, if such person is absent abroad to his agent; or
 - (b.) By leaving the same at the usual or last known place of abode of such person as aforesaid, or by forwarding the same by post in a registered letter, addressed to the usual or last known place of abode of such person:

Petition to Education Department.

- (3.) Upon compliance with the provisions contained in this section with respect to notices the school board may, if they think fit, present a petition under their seal to the Education Department, praying that an order may be made authorising the school board to put in force the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, so far as regards the land therein mentioned; the petition shall state the land intended to be taken and the purposes for which it is required, and the names of the owners, lessees, and occupiers of land who have assented, dissented, or are neuter in respect of the taking of such land, or who have returned no answer to the notice, and shall be supported by such evidence as the Education Department may from time to time require:
- (4.) If, on consideration of the petition and proof of the publication and service of the proper notices, the Education Department think fit to proceed with the case, they may, if they think fit, appoint some person to inquire in the district in which the land is situate respecting the propriety of the proposed order, and also direct such person to hold a public inquiry:
- (5.) After such consideration and proof, and after receiving a report made upon any such inquiry, the Education Department may make the order prayed for, authorising the school board to put in force with reference to the land referred to in such order the powers of the said Acts with respect to the purchase and taking of land otherwise than by agreement, or any of them, and either absolutely or with such conditions and modifications as they may think fit, and it shall be the duty of the school board to serve a copy of any order so made in the manner and upon the persons in which and upon whom notices in respect of the land to which the order relates are required by this Act to be served:

No Order valid until confirmed by Parliament.

- (6.) No order so made shall be of any validity unless the same has been confirmed by Act of Parliament; and it shall be lawful for the Education Department, as soon as conveniently may be, to obtain such confirmation, and the Act confirming such order shall be deemed to be a public general Act of Parliament:
- (7.) The Education Department, in case of their refusing or modifying such order, may make such order as they think fit for the allowance of the costs, charges, and expenses of any person whose land is proposed to be taken of and incident to such application and inquiry respectively:

Costs, how to be defrayed.

- (8.) All costs, charges, and expenses incurred by the Education Department in relation to any order under this section shall, to such amount as the Commissioners of Her Majesty's Treasury think proper to direct, and all costs, charges, and expenses of any person which shall be so allowed by the Education Department as aforesaid, shall become a charge upon the school fund of the district to which such order relates, and be repaid to the *said Commissioners of Her Majesty's*³ Treasury or to such person respectively, by annual instalments not exceeding five, together with interest after the yearly rate of five pounds in the hundred, to be computed from the date of any such direction of the said Commissioners, or allowance of such costs, charges, and expenses respectively upon so much of the principal sum due in respect of the said costs, charges, and expenses as may from time to time remain unpaid.

The School Sites Acts *as defined in the fourth schedule to this Act*³ shall apply in the same manner as if the school board were trustees or managers of a school within the meaning of those Acts, and land may be acquired under any of the Acts mentioned in this section, or partly under one and partly under another Act.

¹ In this section references to school boards and school districts are to be construed as references to local education authorities and the areas for which they act (Education Act, 1902, Schedule III. (1)).

The following Memorandum, issued by the Board of Education, shows the procedure which was required to be adopted when a school board desired to purchase 'land' under the powers given by this section otherwise than by agreement, *i.e.* compulsorily :—

When a school board, other than the school board for London, proposes to petition the Board of Education for a provisional order for putting in force the Lands Clauses Acts, the following regulations should be followed :—

1. The various requirements of §20 of the Elementary Education Act, 1870, should be carried out.

2. Unless a special order has been issued by the Board for Education or by the Education Department prior to the first day of April, 1900, to the school board prescribing the manner of publication required by the aforesaid section, the publication must be made in the manner prescribed by §20 of the Elementary Education Act, 1873, *i.e.* by advertisement, *and* by affixing notices on the church and other doors. These two methods of publication should be as nearly as possible concurrent.

3. The Board of Education are satisfied with publication by advertisement in one or more weekly newspapers circulating in the district of the school board, if the publication has been completed during three consecutive weeks in the months of October and November, or either of them (*e.g.*, advertisement in one or more newspapers on the 9th, 16th, and 23rd of November would be accepted). (*See Rule 2.*)

4. When these preliminaries have been fulfilled and the petition is presented to the Board of Education, the following documents are required as evidence in support of the petition :—

- (a) A statutory declaration stating when, and in what newspapers, the notice was advertised, with a copy of the paper annexed as an exhibit. The declaration must also show that a copy of the notice was affixed on the church and other doors according to §20 of the Elementary Education Act, 1873.

(b) A similar declaration setting forth the service of the several notices upon the different parties and their answers. Each of these declarations requires a stamp (2s. 6d.).

5. The petition should be presented to the Board of Education as early as possible in January, in order that the provisional order may be confirmed in the following session.

6. The Board of Education require to be informed that at the same time as the deposit of the petition was made in their office the Standing Orders of the Houses of Parliament had been complied with.

The Standing Orders provide as follows :—

House of Lords Standing Order 39.

‘Whenever Plans, Sections, Books of Reference, or Maps, are deposited, in the case of a Provisional Order or Certificate proposed to be made by any Public Department or County Council, Duplicates of the said Documents shall also be deposited in the Office of the Clerk of the Parliaments: Provided that with regard to such deposits as are so made at any Public Department, or with any County Council, after the prorogation of Parliament, and before the 30th day of November, in any year, such Duplicates shall be so deposited on or before the 30th day of November.’

House of Commons Standing Order 39.

‘Whenever Plans, Sections, Books of Reference, or Maps, are deposited in the case of a Provisional Order or Provisional Certificate, proposed to be made by any Public Department or County Council, Duplicates of the said Documents shall also be deposited in the Private Bill Office: Provided that with regard to such deposits as are so made at any Public Department, or with any County Council, after the prorogation of Parliament and before the 30th day of November in any year, such Duplicates shall be so deposited on or before the 30th day of November.’

7. Standing Order 38 of the House of Commons provides that—If ten or more houses occupied, either wholly or partially, by persons of the labouring class, whether as tenants or lodgers, are proposed to be acquired, the promoters shall deposit in the Private Bill Office, and at the office of the Central Authority, *on or before the 31st day of December*, a statement of the number, description, and situation of all such houses and the number (so far as can be ascertained) of persons residing therein, and also a copy of so much of the plan, if any, as relates thereto.

The expression ‘house’ means any house or part of a house occupied as a separate dwelling.

The expression ‘Central Authority’ means as regards England and Wales, exclusive of London, the Local Government Board.

And Standing Order 38 also provides that—The expression ‘Labouring Class’ means mechanics, artisans, labourers, and others working for wages, hawkers, costermongers, persons not working for wages but working at some trade or handicraft without employing others except members of their own family, and persons other than domestic servants, whose income does not exceed an average of thirty shillings a week, and the families of any of such persons who may be residing with them.

Standing Order 38 of the House of Lords requires a similar deposit in the Office of the Clerk of the Parliaments.

8. The following further evidence will be required in support of the Petition :—

(a) Evidence that the purchase of land is necessary in order to supply a deficiency of school accommodation, or for other purposes of the Elementary Education Acts.

(b) Evidence that a plan of the land to be purchased has been submitted to, and approved by the Board of Education.

(c) Evidence that the school board is unable to purchase the land so required by voluntary agreement.

9. If the Petition is complied with and the Order made, a copy of such Order must be served on all the persons interested as prescribed by sub-section 5 of §20 of the Elementary Education Act, 1870, and on receipt of a statutory declaration of such

service duly stamped the Board of Education present the confirming Bill to Parliament and conduct it through the various stages.

10. The Petition must state precisely the purpose for which the land is acquired ; and the other matter it is required by §20 of the Act to state, and should be accompanied by plans.

If more than one site is referred to in the same Petition, the purpose must be stated separately for each site, being set forth in a schedule and numbered to correspond with the plans, and the plans of each site should be on separate paper.

11. In a letter accompanying the Petition, reference must be made, in respect of each site included in the Petition, to the official correspondence which the school board have previously had with the Board of Education, as to the supply of the accommodation for which the site is intended.

12. The Petition need not be engrossed, and may be written on ordinary foolscap paper.

13. The school board is informed by the Board of Education when the Bill is presented to Parliament and again when it has received the Royal Assent.

It may be noted that the petition for the making of a provisional order under this section is to be presented by the local education authority to the Board of Education, and not to the Local Government Board.

Where a county council acquire land, otherwise than by agreement, for the purpose of their powers and duties, it is provided by §65 (2) of the Local Government Act, 1888, that they may proceed in accordance with §§176 to 178 of the Public Health Act, 1875.

² The Elementary Education Act, 1873, §15 (p. 270), provides that, for the purpose of the purchase of land otherwise than by agreement under this section, the Act confirming an order of the Education Department for such purchase, together with the principal Act (that is to say, the Act of 1870), shall be deemed to be the special Act.

A school board and now a local education authority acquiring land compulsorily pursuant to this section need not give notice to treat to the owners of easements over the land taken, but may have to pay compensation to such owners in respect of injurious affection (*Clark v. School Board for London*, L. R. 9, Ch. 120). The power given to the school board or local education authority to use land acquired compulsorily for the purpose of providing school accommodation enables them to carry out such purpose, notwithstanding that in so doing it is necessary to infringe the provisions of an Act which forbids the erection of any building within twenty feet of the centre of a highway in the Metropolis (*London County Council v. School Board for London*, 1892, 2 Q. B. 606 ; 62 L. J. M. C. 30 ; 56 J. P. 791 ; 40 W. R. 604).

Where a school board have obtained powers to take land which at the time of obtaining such powers they bonâ fide required for the purpose of school accommodation, a landowner on whom they have served notice to treat cannot restrain them from taking his land on the ground that before serving the notice they had agreed to exchange a portion of that land for other land of an adjoining owner, such exchange being for the advantage of the school and subject to the sanction of the Board of Education (*Rolls v. School Board for London*, 27 Ch. D. 639 ; 51 L. T. 567 ; 33 W. R. 129).

In assessing the compensation to be paid to the owner of land compulsorily taken the noise which will be made by the children may be taken into consideration as injuriously affecting the adjoining lands of the same owner (*R. v. Pearce*, 67 L. J., Q. B. 842). Cf. as to nuisance from noise in adjoining school, *Wauton v. Coppard* (1899, 1. Ch. 92).

³ The words in italics in this section were repealed by the Statute Law Revision (No. 2) Act, 1893.

Purchase of land by Managers of Public Elementary School.

21. For the purpose of the purchase by the managers of any public elementary school of a schoolhouse for such school, or a site for the same,

'The Lands Clauses Consolidation Act, 1845,' and the Acts amending the same (except so much as relates to the purchase of land otherwise than by agreement),¹ shall be incorporated with this Act; and in construing those Acts for the purposes of this section the special Act shall be construed to mean this Act, and the promoters of the undertaking shall be construed to mean such managers, and land shall be construed to include any right over land.

The conveyance of any land so purchased may be in the form prescribed by the School Sites Acts,² or any of them, with this modification, that the conveyance shall express that the land shall be held upon trust for the purposes of a public elementary school within the meaning of this Act, or some one of such purposes which may be specified, and for no other purpose whatever.

Land may be acquired under the Acts incorporated with this section, or under the School Sites Acts, or any of them, or partly under one and partly under another Act.

Any persons desirous of establishing a public elementary school shall be deemed to be managers for the purposes of this section if they obtain the approval of the Education Department to the establishment of such school.

¹ The sections of the Lands Clauses Act, 1845, which relate to the purchase and taking of lands otherwise than by agreement are §§16 to 68, and the remainder of the Act includes amongst other provisions the sections dealing with sales by parties under disability and payment of purchase money into court. These sections may in some cases be found useful.

² For the School Sites Acts, *see* pp. 536 to 556.

Sale or Lease of Schoolhouse.

22. The provisions¹ of the Charitable Trusts Acts, 1853 to 1869, which relate to the sale, leasing, and exchange of lands belonging to any charity, shall extend to the sale, leasing, and exchange of the whole or any part of any land or schoolhouse belonging to a school board which may not be required by such board, with this modification, that the Education Department shall for the purposes of this section be deemed to be substituted in those Acts for the Charity Commissioners.²

¹ *See* the Charitable Trusts Act, 1853, §§21 and 24 to 26; *ib.* 1855, §§16, 29, 32, and 34 to 39; *ib.* 1862, §1; and *ib.* 1869, §12.

² The Board of Education have not as a rule under this section sanctioned the alienation of land vested in a school board except for full valuable consideration, and it has been their practice to require a certificate of the selling value of the premises in question signed by an independent professional surveyor.

In any case where a portion of any Parliamentary grant has been applied towards the erection of any school, no sale or exchange thereof may take place without the consent of the Home Secretary (School Sites Act, 1841, §14, p. 344); and where a grant has at any time been made out of money granted by Parliament for the purchase of the site or the erection, enlargement, or repair of the school, or the residence of the master or mistress, or the furnishing such school or residence, it is necessary either to repay such grant or to obtain the consent of the Home Secretary to the sale, lease, or exchange (School Grants Act, 1855, §1, p. 557).

This section also applies to the sale of a school provided by a school board for the purposes of an industrial school.

*Managers may transfer School to School Board.*¹

23. The managers of any elementary school in the district of a school board may, in manner provided by this Act, make an arrangement with the school board for transferring their school to such school board, and the school board may assent to such arrangement.

An arrangement under this section may be made by the managers by a resolution or other act as follows; (that is to say),

- (1.) Where there is any instrument declaring the trusts of the school, and such instrument provides any manner in which or any assent with which a resolution or act binding the managers is to be passed or done, then in accordance with the provisions of such instrument:
- (2.) Where there is no such instrument, or such instrument contains no such provisions, then in the manner and with the assent, if any, in and with which it may be shown to the Education Department to have been usual for a resolution or act binding such managers to be passed or done:
- (3.) If no manner or assent can be shown to have been usual, then by a resolution passed by a majority of not less than two-thirds of those members of their body who are present at a meeting of the body summoned for the purpose, and vote on the question, and with the assent of any other person whose assent under the circumstances appears to the Education Department to be requisite:

And in every case such arrangement shall be made only—

- (1.) With the consent of the Education Department; and
- (2.) If there are annual subscribers to such school, with the consent of a majority, not being less than two-thirds in number, of those of the annual subscribers who are present at a meeting duly summoned for the purpose, and vote on the question.

Provided that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons or in any manner or subject to any consent, any arrangement under this section shall be made by the persons in the manner and with the consent so provided.

Where it appears to the Education Department that there is any trustee of the school who is not a manager, they shall cause the managers to serve on such trustee, if his name and address are known, such notice as the Education Department think sufficient; and the Education Department shall consider and have due regard to any objections and representations he may make respecting the proposed transfer.

The Education Department shall consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person who has contributed to the establishment of such school.

After the expiration of six months from the date of transfer the consent of the Education Department shall be conclusive evidence that the arrangement has been made in conformity with this section.²

An arrangement under this section may provide for the absolute conveyance to the school board of all the interest in the schoolhouse possessed by the managers or by any person who is trustee for them or for the school, or for the lease of the same,³ with or without any restrictions, and either at a nominal rent or otherwise,⁴ to the school board, or for the use by the school board of the schoolhouse during part of the week, and for the use of the same by the managers or some other person during the remainder of the week, or for any arrangement that may be agreed on. The arrangement may also provide for the transfer or application of any endowment⁵ belonging to the school, or for the school board undertaking to discharge any debt charged on the school not exceeding the value of the interest in the schoolhouse or endowment transferred to them.

When an arrangement is made under this section the managers may, whether the legal interest in the schoolhouse or endowment is vested in them or in some person as trustee for them or the school, convey to the school board all such interest in the schoolhouse and endowment as is vested in them or in such trustee, or such smaller interest as may be required under the arrangement.

Nothing in this section shall authorise the managers to transfer any property which is not vested in them, or a trustee for them, or held in trust for the school; and where any person has any right given him by the trusts of the school to use the school for any particular purpose independently of such managers, nothing in this section shall authorise any interference with such right except with the consent of such person.

Every school so transferred shall, to such extent and during such time as the school board have under such arrangement any control over the school, be deemed to be a school provided by the school board.⁶

¹ The general effect of this section is to enable the managers of an elementary school to transfer the school to the local education authority (which under the Education Act, 1902, takes the place of the school board), in cases where there is no instrument declaring the trusts of the school, and in cases where there is such an instrument but it contains no provision for the alienation of the school, or contains provisions regulating the conduct of the school which are inconsistent with the regulations in accordance with which every public elementary school provided by a local education authority is required to be conducted. In cases where formerly the school board desired to acquire land or other property from persons willing to sell it and having legal power to transfer it to them freed from any trusts, the school board could exercise the powers given by §19 of this Act; but in cases where it became expedient that a school which had not been provided by the school board should be maintained by them, it would, but for this section, have frequently happened that, although the managers were willing to transfer, either there were no trustees with power to transfer, or the trustees who did exist either could not transfer because the school board were unable or unwilling to give full value for the property, or could not transfer the property freed from trusts requiring religious formularies distinctive of a particular denomination to be taught. In such cases §23 enabled the transfer to be effectively carried out. 'Managers' being defined in this Act to include all persons who have the management of any

elementary school, whether the legal interest in the school house is or is not vested in them, it was always possible to find managers capable of acting under the provisions of clauses 1, 2, or 3 of the second paragraph of the section ; and, provided the assents required by the section were given and the other steps laid down had been taken, the consent of the Board of Education to the arrangement for the transfer was sufficient to render it effective as regards all property which was vested in the managers or any trustee for them or held in trust for the school, with the result that the school would, to such extent and during such time as the school board had under such arrangement any control over the school, be deemed to be a school provided by the school board, and that after six months the consent of the Board of Education became conclusive evidence that the arrangement had been made in accordance with the section. The effect of the consent of the Board being therefore to give legal sanction to the terms agreed upon, it was essential that before this consent was given the preliminary conditions imposed by the section should have been fulfilled, and the following minutes, letters, and instructions have been issued on the subject :—

The Committee of Council on Education resolved (*Minute of 17th July 1871*) :—

I. In the case of premises held under a trust, express or implied, the following rules shall be observed :—

- (1.) All questions relating to the title of the parties to the proposed arrangement, or affecting the subject matter upon which it is to operate, must be considered and settled by the legal advisers of the parties, and will not be investigated by the Education Department.
- (2.) In considering whether any proposed arrangement should be approved the Department will confine their attention to ascertaining that the terms of such arrangement are in their opinion proper and reasonable, and the approval expressed in any case will be limited accordingly.
- (3.) As to the terms of the arrangement, no payment of rent beyond that charged upon and reserved out of the premises by the original lease, and no other valuable consideration, except an undertaking to insure and keep the premises in repair, and to keep down or redeem charges or incumbrances on the same, will in general be sanctioned.

II. Arrangements with respect to schools which are private property must be settled by the proprietors of the premises and the school boards, under §19 of the Act, and do not require the intervention of the Department.

On January 1st, 1872, the Department issued the following letter explanatory of the above Minute.

*Education Department,
January 1, 1872.*

Various questions having been addressed to this Department as to the interpretation to be put upon the Minute affecting transfers, which was passed on the 17th day of July 1871, I am directed by my Lords to furnish you with the following explanations :—

1. According to Resolution II. of that Minute, in all cases in which the school board are satisfied that any person or body of persons has, independently of the Elementary Education Act, 1870, legal power to sell, let, transfer, or deal with any tenements, whether occupied as schoolhouses or not, the school board may deal with such person or persons with respect to such tenements without the intervention of the Education Department. In such cases the school board exercise the powers vested in them by §§18 and 19 of the Education Act, and the consent provided for under §23 is not required. The same rule applies to any sale, lease, transfer of, or dealing with, books, school apparatus, or other school property over which any person has power of alienation.

2. But if an 'elementary school' (§3) is vested in certain persons as trustees, and these trustees have no power independently of §23 of the Elementary Education Act, to sell, lease, transfer, or deal with such school, then, if the school is to be transferred to a school board, recourse must be had to that section. It provides the means by which a proposed transfer can be effected ; and it should be observed that were it not for that section the managers of a school might be compelled, if subscriptions should fail, to retain a schoolhouse, without teachers and without scholars ;

whereas, by taking advantage of that section, the managers in such an emergency are enabled to transfer their school to the board, who have power (§§18 and 19) to enlarge or improve it, and to keep it in a state of efficiency.

3. But, further, according to the construction of §23, adopted in the Minute, 17th July 1871, the managers have power to transfer their school only in order to relieve themselves from the responsibility of maintaining it, and for no other purpose. It was not the purpose of the Legislature to enable trustees or managers to obtain money for property held by them in trust or for the discharge of debts for which they may have made themselves personally responsible. If, indeed, it can be shown that the trustees of the school or other persons have, independently of the Act—by virtue of the original trust or otherwise—any legal power to charge, entumber, or mortgage the school premises, and that such power has been exercised, the mortgagee or incumbrancer will be protected, and any transfer will be made subject to the legal or equitable rights of such mortgagee or incumbrancer, whose rights are recognised by the 23rd section. But if, independently of the Education Act, there is no power to charge or encumber the premises, then the consideration for the transfer thereof must be *nominal*.

When school premises have been erected partly by pecuniary aid from the Parliamentary grant, they cannot be legally mortgaged or encumbered and therefore in such cases a mortgage or encumbrance cannot be recognised by the Department.*

4. Arrangements are sometimes proposed, which contemplate the payment of school expenses incurred prior to the date of the transfer, but not charged upon the premises. But, according to the Elementary Education Act, 1870, the ratepayers cannot be made to contribute towards the expenses of an elementary school, unless it be a school 'provided by a school board,' which means (§14) 'a school conducted under the control and management of a school board,' so that until the date of transfer, a school board cannot undertake to contribute towards the expenses of its maintenance.

5. In cases in which a transfer of a school in receipt of annual grants takes place in the course of the school year, the managers may make an arrangement to claim such proportion of the grant as corresponds to the number of months which have elapsed between the end of the last school year and the date of the transfer.

In accordance with this Minute and letter the practice of the Board is to require answers to the following questions to be signed by the solicitor of the school board, the secretary or the clerk of the managers, and the clerk of the school board (Form 96).

1. By what name is the school known to the Board of Education?
2. In what school board district are the school premises situated?
3. What is the date of the deed or other instrument under which the school is held?
4. Is there any deed of trust separate from the conveyance of the site? If so, give its date.
5. Has there been any scheme established for the school by the Court of Chancery, or by the Charity Commissioners, or in any other way? If so, give its date.
6. If there is no instrument declaring the trusts of the school, state fully why it is supposed that a transfer cannot take place without the formalities required by §23 of the Elementary Education Act, 1870.
7. In what manner, and with what assent, has it been usual for a Resolution or Act binding the managers to be passed or done?
8. Is there any trustee of the school who is not a manager whose address is known? If so, give his name and address. See paragraph 8 of the 'Instructions as to the Transfer of Schools.'
9. Has the British and Foreign School Society, the National Society, the Wesleyan Education Committee, the Roman Catholic Poor School Committee, or any local educational body, contributed to the establishment of the school? See paragraph 9 of the 'Instructions as to the Transfer of Schools.'
10. If any endowment belonging to the school is to be included in the intended transfer to the board, give the dates of the deeds, schemes, or other instruments, creating such endowment and attaching it to the school.
11. The documents referred to in paragraphs 3, 4, 5, and 10 (or copies thereof) must be sent to the Board of Education, with Forms 96 and 96r.
[Where there has been a School Building Grant made by the Education Department, the trust instruments affecting the school premises of an earlier date than the School Building Grant, need not be sent, as copies of them are already in the possession of the Board of Education.]*

The following instructions have been issued by the Board as a guide in sending in the application and in answering the above questions (Form 96b):—

* See the School Building Grant Minutes, p. 559.

INSTRUCTIONS AS TO THE TRANSFER OF SCHOOLS.

1. The Board of Education have no power to compel the transfer of any school to a school board. The Board of Education can only *consent* to the terms of transfer *agreed* to by the managers of an elementary school and the school board of the district within which the school in question is situated.

2. When school premises have (under the advice of the Committee of Council on Education for the time being) been erected, enlarged, improved, or fitted up partly by pecuniary aid (a *Building Grant*) from the Parliamentary grant, the Board of Education will refuse to pay any annual grant to a school board on account of a school carried on in such premises until such school has been actually transferred under §23 of the Elementary Education Act, 1870.

3. Where no *Building Grant* has been made by the Education Department, the parties, if so advised, may transfer under §19 of the Act. If this is done, the clerk to the school board should send to the Board of Education a notice that the school has been taken over by the school board as soon as such is the fact. The Minute of the Education Department of the 17th July 1871, and the explanatory letter thereon of the 1st January 1872, may be of assistance in determining the preliminary question.

4. (a) If it is decided by the parties concerned to submit an arrangement for transfer to the Board of Education under §23, a Form 96 (to be obtained on application to the Board) should be completed and sent to the Board of Education for consideration with the draft of the proposed arrangement for transfer.

(b) In filling up the Form 96, each answer should be written opposite the corresponding question.

(c) When the answers have been filled in, the form should be dated, and signed by the solicitor to the Board, the secretary or clerk of the managers, and the clerk of the school board.

5. (a) In preparing a draft arrangement for transfer, for submission to the Board of Education under §23, one of the printed forms, 96r, supplied by the Board, must be used, and not a manuscript draft.

(b) The arrangement should be submitted to the Board of Education as a draft, *i.e.* unexecuted, and is of no validity until approved by the Board.

(c) The consent of the Board of Education to an arrangement under §23 is confined to approving a copy of the draft terms of arrangement. It must rest with the parties concerned to determine what further proceedings may be required to complete the transfer.

6. In preparing the draft 96r, in cases where there is an instrument declaring the trusts of the school, and such instrument contains any provision for the *alienation* of the school by any persons or in any manner, or subject to any consent, care must be taken to set forth properly that the arrangement is made by the persons in the manner and with the consent so provided. The draft 96r will therefore require to be modified:—

(a) The aforesaid persons will be the proper parties to the arrangement, and their names will require to be inserted on page 1 of 96r.

(b) After the words 'it is provided that' in paragraph B, should be inserted a recital of the aforesaid proviso for alienation.

(c) This recital should be followed by a statement that the consents and formalities required by the proviso have been duly obtained and fulfilled, the proper dates being given.

(d) Paragraphs B¹, C, C¹, C², and the last line of paragraph B, should be struck out. It will also be necessary to strike out of paragraph A the words 'the managers are managers within the meaning of the Elementary Education Act, 1870, and,' and the word 'managers' in paragraph F should be replaced by the proper description of the aforesaid persons.

7. The terms of arrangement should be inserted in paragraph F.

(a) The arrangement may be for a term of years, or for the entire interest which can be transferred under §23.

(b) The school board must not undertake to pay any consideration other than a strictly nominal one (say five shillings), whether such consideration consists of a price or of a rent.*

(c) The arrangement may provide for the discharge of any *bond fide* encumbrance which is secured by a charge on the school premises, provided the amount of such encumbrance does not exceed the value of the interest in the premises and endowment transferred to the school board. See paragraph 10, *post*.

(d) The arrangement may provide for the school board keeping down the interest on any such encumbrance as that specified in paragraph 7 (c) *ante*, provided the annual amount of such interest does not exceed the annual value of the interest in the premises and endowment transferred to the school board.

(e) The arrangement must not provide for the payment by the school board of any other debt, or for the keeping down by the school board of the interest on any other debt.

(f) The arrangement must not provide for the payment by the school board of the current expense of maintaining the school during any time *prior to the date of the transfer*, and this date must not be earlier than the date of the consent of the Board of Education to the terms of arrangement for transfer.

(g) If the fittings, furniture, books, and apparatus of the school are private property, they should be dealt with by a distinct agreement outside of an arrangement submitted to the Board of Education under §23. If, however, these articles can only be dealt with by an arrangement under that section, there must be no valuable consideration given for them or for their use by the school board.

(h) The use to which the trustees or managers think they may legally put the school premises during any times when their use is not transferred to the school board must not be specified in the arrangement for transfer, as the Board of Education do not think they should be called upon to express any opinion upon that point.

(i) The arrangement must not prescribe the kind of instruction (whether religious or secular) to be given in the school.† It must not contain anything as to the examination or inspection of the school, the appointment of managers or teachers, the admission of children, or the general management of the school. The school, so far as transferred to the school board, must be managed

* See note 4 on p. 224.

† As to the arrangement of the time-table in transferred schools, see the Circular of 15th January 1874, p. 201.

in every respect as the school board for the time being see fit, subject only to §§7 and 14 of the Elementary Education Act, 1870.

8. If there is any trustee of the school who is not also a manager (whose address is known), the proposed terms of arrangement should be shown to him, and his observations thereon communicated by the clerk of the school board to the Board of Education. The view which the school board and the managers take of these observations should also be communicated to the Board of Education.

9. If there are any societies (such as the National Society, the British and Foreign School Society, the Wesleyan Education Committee, the Roman Catholic Poor School Committee, or any local educational body) who have contributed to the establishment of the school, the proposed terms of arrangement should be shown to them, and their observations thereon communicated by the clerk of the school board to the Board of Education. The view which the school board and the managers take of these observations should also be communicated to the Board of Education, who should be informed what practical reasons prevent the school board and managers from agreeing to meet the objections made by the society to the arrangement, on the ground that it involves an unnecessary departure from the terms of the original trust. The Board of Education, under the 23rd section of the Act of 1870, are required to 'consider and have due regard to any objections and representations respecting the proposed transfer which may be made by any person (which includes a body corporate, §3) who has contributed to the establishment of such school.'

10. If the school board are to pay off or keep down any encumbrance charged on the school, full particulars of the origin and nature of such charge must be given, and the Board of Education must be informed of the reasons for supposing that the charge is one duly created. A certificate of a professional surveyor must in such a case also be sent to the Board of Education to show the value of the interest in the school premises which it is proposed to transfer to the school board.

11. (a.) The trust deeds or other instruments of trust of the school (or copies thereof) must be sent to the Board of Education with Forms 96 and 96 r.

(b.) Where there has been a school building grant made by the Education Department, the trust instruments affecting the school premises of an earlier date than the school building grant need not be sent.

12. A solicitor should be employed in the case of every transfer under §23, to consider and fill up the Forms 96 and 96 r., but *all* communications with the Board of Education on the subject of a proposed transfer under §23 must be made through the clerk of the school board.

13. Where it is proposed to transfer more than one school, the correspondence as to the transfer of each school should be conducted separately.

14. Any consent required by §23 of the Elementary Education Act, 1870 (for example, the consent of the body of managers and of the body of annual subscribers), should be obtained, if possible, in a *general form*. That is, such consent should be to the proposed terms of arrangement for transfer, subject to such modifications in details as may be required by the Board of Education, before giving their consent. The Board of Education should be informed by the clerk of the school board whether the aforesaid consents or any of them have been given in such general form. The course here suggested is calculated to prevent unnecessary delay.

When the application has been sent in and the above mentioned information has been given and considered, the arrangement is drafted in Form 96r, which is as follows (Form 96r) :—

FORM OF TRANSFER.

MEMORANDUM OF ARRANGEMENT made the

day

This date must not be
earlier than the date of the
consent of the Board of Edu-
cation to the arrangement.

of
Between

the Managers of the School, which said persons
above named are hereinafter called 'The Managers,' and which said school is herein-
after called 'The School,' of the *one part*, and The School Board for
hereinafter called 'The Board,' of the *other part*.

A.—WHEREAS 'The Managers' are Managers within the meaning of the Elementary Education Act, 1870, and 'The School' is an Elementary School in the District of the Board.

In cases falling under §23 (1) of the Elementary Education Act, use B.C.

B.—AND WHEREAS by an instrument declaring the trusts of the school, to wit, an Indenture bearing date the day of and made between

Insert Parties.

it is provided that

State the manner in which,
and the assent with which a
Resolution or Act binding the
Managers is to be passed or
done §23 (1).

but such instrument contains no provision for the alienation of the school ;

C.—AND WHEREAS the arrangement hereinafter set forth has been proposed by the managers, and assented to by the board : And the managers in pursuance of such proposal have passed a resolution on the day of _____ according to the manner in which, and with the assent with which a resolution binding the managers was to be passed.

In cases falling under §23 (2) (3) of the Elementary Education Act instead of B. let B¹. and instead of C. let C¹. or C². be substituted.

B¹.—AND WHEREAS there is no instrument declaring the trusts of the school or containing any provision with respect to the manner in which or the assent with which a resolution or act binding the managers is to be passed or done ;

Q¹.—AND WHEREAS the arrangement hereinafter set forth has been proposed by the managers and assented to by the board and the managers in pursuance of such proposal have passed a resolution in the manner in which and with the assent with which it has been shown to the Board of Education to have been usual for a resolution binding the Managers to be passed ;

[Or if no manner or assent can be shown to have been usual.]

C².—AND WHEREAS the arrangement hereinafter set forth has been proposed by the managers and assented to by the board and the said arrangement on the day of _____ received the assent of _____ being not less than two-thirds of those members of the body of managers who were present at a meeting of the Body summoned for the purpose and voted on the question ;

Strike out paragraph D or paragraph D¹ according as there are, or are not, any annual subscribers.

D.—AND WHEREAS there are no annual subscribers to the school ;

D¹.—AND WHEREAS on the day of _____ the said arrangement received the consent of _____ (not being less than two-thirds) of the annual subscribers to the school who were present at a meeting duly summoned, and voted on the question ;

E.—AND WHEREAS the proposed arrangement received the consent of the Board of Education on the day of _____

State the terms of the Agreement.

F.—Now it is hereby agreed between the managers and the board as follows :

(1.) Insert the term of years and the hours and days fixed on.

The hours fixed on should give to the board at least 2½ hours for the morning meeting and 2½ hours for the afternoon meeting of the school. Less time will not allow for marking the registers, and the orderly assembling and dismissal of the children. Holidays, such as Christmas Day, Good Friday, etc., should (if agreed upon) be specially reserved.

In this arrangement the expression 'Schoolhouse' means the hereditaments comprised in, and of which the trusts are declared by, the hereinbefore recited instrument.

The board shall during the term of (1) _____ years from the date of these presents, have the exclusive use at all times of every teacher's residence forming part of the schoolhouse, and also the exclusive use of the rest of the schoolhouse on every week day from (1) _____ o'clock in the morning until (1) _____ o'clock in the afternoon, and after six o'clock in the afternoon of every (1) _____

The right to the use of the schoolhouse at all such times, as its use is not by this arrangement allowed to the board, shall be in those persons who but for the said arrangement would have the said right.

The board shall during the said term pay and discharge all rates, taxes, charges, assessments, and out-goings whatsoever, whether Parliamentary, municipal, parochial, local, or of any other description, which are now or may at any time hereafter be assessed, charged, or imposed upon the schoolhouse, or on the owner or occupier in respect thereof.

The board shall at their own costs during the said term insure and keep insured against loss by fire the schoolhouse to the full value thereof in some office of repute, and shall expend all moneys received in respect of such insurance upon the schoolhouse in such manner as may be directed by the Board of Education.

The board shall during the said term keep the schoolhouse clean and in good and tenantable repair internally and externally.

All the costs and expenses of, and incidental to, these presents, and the carrying out and perfecting of the said arrangement, shall be borne and paid by the board.

If any annual grant received by the board from the Board of Education on account of the school relates to a period during part of which the school was conducted by the managers, any grant paid by the Board of Education in respect of such part, but not in any case exceeding the net liabilities of the managers at the date at which the school ceased to be conducted by them, shall be paid by the board to the managers.

Provided always that notwithstanding anything expressed or contained in the present arrangement, the board shall continue to have such use of the schoolhouse as hereinbefore specified until the expiration of a period not exceeding twelve months to be fixed by the board after the value of any works executed with the aid of a loan shall have been repaid to the board.

The aforesaid value shall be the value at the time when the repayment is made in full and the amount to be so repaid shall be ascertained and certified by a surveyor selected jointly by the board and the managers to whom the school will revert when it ceases to be a school provided by the board. In the event of their disagreement the surveyor shall be appointed by the Board of Education and his expenses defrayed by the board and managers in such proportions as the Board of Education shall direct.

This date must not be earlier than the date of the consent of the Board of Education to the arrangement.

G.—From and after the day of the school hereby transferred shall to such extent and during such times as the board have under the said arrangement any control over such school be deemed to be a school provided by the board within the meaning of the Elementary Education Act, 1870. In witness, etc.

The above recitals are correct to the best of our knowledge and belief.

Solicitor of School Board.

Clerk of Managers.

Clerk of School Board.

When this draft arrangement has been approved, the Board of Education intimates its consent thereto by attaching the consent to the draft and returning it to the Clerk of the School Board. The consent is in the following form (Form 101a):—

Consent of Board of Education to be attached to the draft.

The Board of Education, to the extent indicated by the Minute passed by the Lords of the Committee of Council on Education on the 17th of July 1871, approve of the terms of the proposed arrangement within written, and hereby, in compliance with the 23rd Section of the Elementary Education Act, 1870, consent to the said arrangement.

G. W. KEKEWICH, *Secretary.*

* The arrangement is thenceforth binding on the parties, and accordingly the covering letter states 'the Board of Education do not require to see an executed document in proof of the completion of the transfer, nor will they superintend or interfere with any further proceedings which may be necessary to complete the transfer in the present case. These must be carried out by the parties thereto, after taking such legal advice as they may consider necessary under the circumstances.'

* The Committee of Council on Education, by Minute of the 13th August 1875, resolved:—

1. That it is expedient to apply to arrangements for *transfer for a term of years* the principle laid down by §24 of the Act of 1870, with respect to the repayment of loans in cases of *re-transfer* under that section.

In accordance with this resolution a clause was inserted in the form of arrangement in the following terms:—

Provided always that notwithstanding anything expressed or contained in the present arrangement, the school board shall be at liberty to retain possession of the schoolhouse until the expiration of a period not exceeding twelve months, to be fixed by the board after the value of any works executed with the aid of a loan shall have been repaid to the board.

In a case at X. where the term of the original lease had expired, but the managers declined to repay the value of the works which had been executed with the aid of a loan, though the school board wished to discontinue the use of the premises which had been leased to them under this section, the school board were advised that they were not in the position of tenants having an estate under a demise, but of persons who had a licence to occupy under a contract until the expiration of a period not exceeding twelve months after the repayment had been made; and they were further advised that their obligation to pay rent, their covenant to repair and to surrender in repair, and the benefit of the reservation to the lessors of the right of access on special occasions, were confined to the term for which the original lease was made, and had no application to the period of occupancy under the special contract, which was in its nature something quite different from the original tenancy. On the other hand the managers were advised that their own right of access on special occasions to the premises remained in force so long as no repayment was made, on the ground that the expression 'liberty to retain possession' ought to be construed to mean such possession as the board had under the lease.

In recent years the words 'shall be at liberty to retain possession of the school-house' have been replaced by the words, 'shall continue to have such use of the schoolhouse as hereinbefore specified.' See the clause beginning 'Provided always' in the form of arrangement on p. 222. The use of the latter formula precludes the occurrence of the difficulties which arose in the case mentioned in the last paragraph.

Whichever of these two forms of words is adopted in the proviso in question, the

school board will not by the mere fact of continuing in occupation of the premises after the term of the original lease has expired establish any title thereto by adverse possession, and in the case of *Evans v. the Gyffylliog School Board* (decided in the Queen's Bench Division 1901 $\frac{1}{2}$, No. 617), an injunction was granted on the 13th November 1901 to restrain the school board from continuing to occupy the premises, though they had been in possession thereof for twelve years after the expiration of the original lease.

⁴ An arrangement under this section may provide for the lease of the schoolhouse to the school board, 'either at a nominal rent or otherwise,' and it may also provide for the school board undertaking to discharge any debt charged on the school, not exceeding the value of the interest in the schoolhouse, or endowment (if any), transferred to them.

The interpretation which it has been the practice of the Board of Education to place upon the provisions of the section, so far as they bear upon the question whether a substantial payment by way of price or rent may be made by the school board, is seen from §1 (3) of the Minute of the 17th July 1871, paragraphs 2 to 4 of the explanatory letter of the 1st January 1872, and Rule 7 (b) to (e) of the official instructions, Form 96B, *supra*.

With regard to the question of a payment by the school board of a valuable consideration by way of price, or in the discharge of any debt not 'charged on the 'school,' on the principle *inclusio unius exclusio alterius*, there does not appear to be any power given by the section to the school board to make such a payment, and the question of the discretion of the Board of Education to consent to the inclusion of provision for such a payment in the arrangement does not arise.

With regard to the question of the payment of a rent by the school board, the section contemplates the lease of the schoolhouse 'at a nominal rent or otherwise.' The interpretation which has been placed upon these words by the Board of Education, viz., that either the rent must be a nominal one, or there must be no rent at all, has been almost invariably followed, and has never been effectively challenged. It has, however, been suggested that the effect of the words 'at a nominal rent or otherwise' is simply that the managers when they make an agreement under the section are to be considered as expressly exempted from the operation of the ordinary rule, that persons disposing of trust property are bound to obtain full valuable consideration, and that the words, so far from precluding the managers from obtaining and applying to the purposes* of their trust such rent as the local education authority may be willing to pay, merely give them a power, which they would not otherwise have, to accept a rent which is only nominal should they think right to do so.

⁵ As to the powers of the Charity Commissioners under the Charitable Trusts Acts in respect of any educational endowment, which the Board of Education are now in a position to exercise (*see* p. 392), it was held in the case of the Burnham National Schools (L. R. 17 Eq. 241) that it was no objection to the exercise of such jurisdiction that the effect might be to facilitate the transfer under this section of a Church of England school to a school board. In that case the Charity Commissioners had appointed additional trustees for a Church of England school, and the general grounds on which the petition for the discharge of their order was based were (1) that the jurisdiction ought not to be exercised in contentious cases; (2) that there was no jurisdiction to appoint additional trustees; (3) that the jurisdiction could not be exercised if the effect would be that the school might be handed over to a school board; (4) that the 46th section of the Charitable Trusts Acts, 1853, prevented the jurisdiction being used to the prejudice of the Church of England. Sir G. Jessell, M.R., held as regards the first ground that although the Commissioners might decline to exercise their jurisdiction if they thought that the case was better fitted for a judicial tribunal, yet they were not bound to decline: as regards the second and third grounds that there clearly was

* If, on a strict interpretation of the trust deed, there are no such purposes available, the Board of Education could, if necessary, make a scheme for the *cy-pris* application of any money received by way of rent, under the powers of the Charitable Trusts Acts, transferred to them from the Charity Commissioners. See the Board of Education (Powers) Orders in Council, 1900 to 1902 (pp. 398 to 402).

These powers would be equally available for providing for a valuable consideration by way of price, a scheme under these Acts not being an arrangement under §28, and therefore not open to the objection mentioned in the third paragraph of this note.

jurisdiction, and that it could be exercised, and as regards the fourth ground that it would prevent the appointment of any but members of the Church of England, but that as the trustees appointed were members of the Church of England, there was no ground for interference by the court.

The following cases relate to the transfer of endowments under this section. In the case of *School Board for London v. Faulconer*, 8 Ch. Div. 571, a school in Flint Street, Walworth, had been transferred under §23, and the arrangement, approved by the Education Department, also provided for the transfer to the School Board of an endowment of £90 a year arising out of certain charity estates. This £90 a year was according to a scheme settled by the Court of Chancery to be paid by the Charity Trustees to the treasurer for the time being of the St. Mary Newington School Association for the education of the poor of every religious denomination, to be appropriated in aid of the charges and expenses attendant upon carrying on the school in Flint Street, Walworth, or of any other school that might be established in its stead, provided that no sum should be paid to any school which should become the property of any exclusive denomination or sect, or exclude by reason of its regulations the children of any class or denomination of persons. It was further provided that if such school should become materially altered in discipline, number of children, or other circumstances, then the endowment should be in the discretion of the trustees appropriated for educational purposes amongst other schools of a similar character in the parish. The trustees alleged that the school had become materially altered, but Vice-Chancellor Bacon held that it had not, as the school board proved that they intended still to maintain it as an elementary school, the only material alteration being that from a school for boys, it was to be turned into a school for boys and girls. He held therefore that the school board were entitled to the endowment, and could apply it as their predecessors the managers might have done to any wholesome lawful proper purpose connected with the management of the school, such as giving prizes or encouragement to the pupils in the school.

In the case of a transfer to the school board of any endowment belonging to the school, the school board becomes a cestuique trust of the fund transferred, and it has therefore been held that if they claim to recover such endowment, they are claiming under a charitable trust and cannot initiate proceedings without leave of the Charity Commissioners or now of the Board of Education (*School Board for Llanbadarnfawr v. Official Trustees*, 1901, 1 Q.B. 430).

In settling any scheme for the regulation of funds so transferred, the Court of Chancery laid it down that care should be taken to provide that the funds shall be applied for the advancement of learning in the school so that they should not go in relief of the rates (*In re Poplar and Blackwall Free School*, 8 Ch. Div. 543), and the Board of Education would probably follow this decision in cases where they act by virtue of their powers under the Charitable Trusts Act. Where, however, the Board of Education are only consenting to an arrangement under §23, it is possible that they might consider that §13 (2) of the Education Act, 1902, indicated that an endowment which was applicable to maintenance might be applied in accordance with that subsection in aid of the rate levied in the parish or parishes which in the opinion of the council are served by the school (but see note to that subsection).

The provision that the arrangement may provide for the use by the school board of the schoolhouse during part of the week and for the use of the same by the managers or some other person during the remainder of the week has been utilised, and may probably be useful in the future in cases where it is desired that the local education authority should take over the maintenance of the school as a public elementary school, while the managers retain control of the school during some portion of each day for the purpose of providing religious instruction. When such an arrangement is made, the Cowper-Temple Clause only applies to the school during the time during which it is being maintained as a public elementary school, and does not prevent the teaching of distinctive religious formularies during the time when control is reserved to the managers.

⁶ A school which is under the control of a school board by virtue of a temporary arrangement under this section will by Schedule II. (13) of the Education Act, 1902, be deemed to be a school provided by the local education authority. When the

arrangement terminates either by effluxion of time or by notice, the school will cease to be a school provided by the local education authority. It is expressly provided by the Education Act, 1902, §8 (3) (*see the note thereon, p. 73*), that any transfer of a public elementary school to or from a local education authority shall for the purposes of that section be treated as the provision of a new school.

As to the arrangement of the time-table in schools transferred under this section, *see the Circular of 13th January 1874, p. 201.*

The proviso in the section that where there is any instrument declaring the trusts of the school, and such instrument contains any provision for the alienation of the school by any persons, or in any manner or subject to any consent, any arrangement shall be made by the persons in the manner and with the consent so provided, has no application when the trust-deed contains no provision whatever for alienation. Vice-Chancellor Malins accordingly held that in the case of a school of which the trust-deed provided that the school was to be always in union with and conducted in accordance with the principles of the National Society, but contained no provision for its alienation, the consent of the society was not by virtue of this proviso required to a transfer, and that the proper mode for the society to give effect to its objections to a transfer in such a case was by appearing before the Education Department under the next paragraph but one of that proviso (*National Society v. London School Board, L.R. 18 Eq. 608*). In many trust-deeds of recent date clauses have been inserted containing express provisions for alienation and in such cases the proviso in the section applies, and the above-mentioned decision does not apply.

Re-transfer of School by School Board to Managers.

24. Where any school or any interest therein has been transferred by the managers thereof to the school board of any school district in pursuance of this Act, the school board of such district may, by a resolution passed as hereinafter mentioned, and with the consent of the Education Department, re-transfer such school or such interest therein to a body of managers qualified to hold the same under the trusts of the school as they existed before such transfer to the school board, and upon such re-transfer may convey all the interests in the schoolhouse and in any endowment belonging to the school vested in the school board.¹

A resolution for the purpose of this section may be passed by a majority of not less than two-thirds of those members of the school board who are present at a meeting duly convened for the purpose, and vote on the question.

The Education Department shall not give their consent to any such re-transfer unless they are satisfied that any money expended upon such school out of a loan raised by the school board of such district has been or will on the completion of the re-transfer be repaid to the school board.²

Every school so re-transferred shall cease to be a school provided by a school board, and shall be held upon the same trusts on which it was held before it was transferred to the school board.³

¹ The form to be executed by a school board when it is proposed to re-transfer under this section is as follows :—

WHEREAS the school board for _____ are desirous of re-transferring under the provisions of §24 of the Elementary Education Act, 1870, all such interest in the school and schoolhouse formerly known as the _____ and whose original Trust Deed is dated the _____ as is now held or vested in them pursuant to any arrangement for transfer under §23 of the said Act ;

And whereas the proposed re-transfer has been approved by a resolution passed by _____

a majority of not less than two-thirds of those members of the said school board who were present on the day of 19, at a meeting duly convened for the purpose and voted on the question;

And whereas no money has been expended upon such school out of a loan raised by the said school board;

And whereas the proposed re-transfer has received the consent of the Board of Education;

Now in pursuance of the said resolution and in accordance with the said consent, the said school board do hereby re-transfer and convey all such interest as aforesaid to being a body of managers qualified to hold the same upon the same trusts on which it was held before any such arrangement for transfer as aforesaid was made.

In witness whereof the said school board have hereunto affixed their common seal this day of 190 .

(L.S.)

In the presence of

Chairman.

Clerk.

² As to the repayment of any money expended upon the school out of a loan raised by the school board, see note 3 to §23, p. 223.

³ In some cases it has happened that school boards were desirous of obtaining a greater interest in the premises transferred to them under §23 than was vested in them by the arrangement which they had entered into under that section; for example they might wish to execute works of a permanent character with the aid of a loan, the repayment of which would be spread over a term of years extending beyond the date at which the arrangement under §23 would terminate. In such cases the school board re-transferred the school under this section with a view to a fresh transfer being immediately effected for a longer term under §23.

In cases where it is desired to make use of the provisions of this section for the purpose of handing the school over to a body of managers in order that it may in future be carried on as a school not provided by the local education authority, it is to be remembered that a transfer of a public elementary school from a local education authority is, for the purposes of §8 of the Education Act, 1902 (p. 71), to be treated as the provision of a new school.

MISCELLANEOUS POWERS OF SCHOOL BOARD.

Payment of School Fees.

25. *The school board may, if they think fit, from time to time, for a renewable period not exceeding six months, pay the whole or any part of the school fees payable at any public elementary school by any child resident in their district whose parent is in their opinion unable from poverty to pay the same; but no such payment shall be made or refused on condition of the child attending any public elementary school other than such as may be selected by the parent; and such payment shall not be deemed to be parochial relief given to such parent.*¹

¹ This section is repealed by §10 of the Elementary Education Act, 1876. See the note to that section, p. 284.

Establishment of Free School in special cases.

26. *If a school board satisfy the Education Department that, on the ground of the poverty of the inhabitants of any place in their district, it is expedient for the interests of education to provide a school at which no fees shall be required from*

*the scholars, the board may, subject to such rules and conditions as the Education Department may prescribe, provide such school, and may admit scholars to such school without requiring any fee.*¹

¹ This section is repealed by §11 of the Elementary Education Act, 1891. See the notes to §1 (1) of that Act, p. 317.

See also Schedule III. (5) of the Education Act, 1902, *ante*.

Contribution to Industrial Schools, 29 & 30 Vic. c. 118.

27. A school board shall have the same powers of contributing money in the case of an industrial school as is given to a prison authority by section twelve of 'The Industrial Schools Act, 1866'¹; and upon the election of a school board in a borough the council of that borough shall cease to have power to contribute under that section.²

¹ For the powers of 'prison authorities' under §12 of the Industrial Schools Act, 1866, see the Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741).

² The latter part of this section was amended by §8 of the Reformatory and Industrial Schools Acts Amendment Act, 1872 (p. 745).

Establishment of Industrial School.

28. A school board may, with the consent of the Education Department, establish, build, and maintain a certified industrial school within the meaning of the Industrial Schools Act, 1866; and shall for that purpose have the same powers as they have for the purpose of providing sufficient school accommodation for their district:¹ Provided that the school board, so far as regards any such industrial school, shall be subject to the jurisdiction of one of Her Majesty's Principal Secretaries of State in the same manner as the managers of any other industrial school are subject, and such school shall be subject to the provisions of the said Act, and not of this Act.

¹ The consent of one of Her Majesty's principal Secretaries of State was substituted for the consent of the Education Department, as regards the purpose specified, by §15 of the Elementary Education Act, 1876 (see the notes to that section and the Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741), and Schedule III. (8) of the Education Act, 1902, *ante*.

CONSTITUTION OF SCHOOL BOARDS.

School Board.

29. *The school board shall be elected in manner provided by this Act,*¹*—in a borough by the persons whose names are on the burgess roll of such borough for the time being in force, and in a parish not situate in the metropolis by the ratepayers.*

At every such election every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit.

The school board in the metropolis shall be elected in manner hereinafter provided by this Act.

¹ Sections 29 to 34 are repealed by the Education Act, 1902, except as regards London.

Constitution of School Board.

30. *With respect to the constitution of a school board the following provisions shall have effect :*

- (1.) *The school board shall be a body corporate, by the name of the school board of the district to which they belong, having a perpetual succession and a common seal, with power to acquire and hold land for the purposes of this Act without any licence in mortmain :*
- (2.) *No act or proceeding of the school board shall be questioned on account of any vacancy or vacancies in their body :*
- (3.) *No disqualification of or defect in the election of any persons or person acting as members or member of the school board shall be deemed to vitiate any proceedings of such board in which they or he have taken part, in cases where the majority of members parties to such proceedings were duly entitled to act :*
- (4.) *Any minute made of proceedings at meetings of the school board, if signed by any person purporting to be the chairman of the board, either at the meeting of the board at which such proceedings took place or at the next ensuing meeting of the board shall be receivable in evidence in all legal proceedings without further proof, and until the contrary is proved every meeting of the school board, in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly convened and held, and all the members thereof to have been duly qualified to act :*
- (5.) *The members of a school board may apply any money in their hands for the purpose of indemnifying themselves against any law costs or damages which they may incur in or in consequence of the execution of the powers granted to them :*
- (6.) *The rules contained in the third schedule to this Act with respect to the proceedings of school boards, and the other matters therein contained, shall be observed.*

Election of School Board.

31. *With respect to the election under this Act of a school board, except in the metropolis, the following provisions shall have effect :*

- (1.) *The number of members of a school board shall be such number, not less than five nor more than fifteen, as may be determined in the first instance by the Education Department, and afterwards from time to time by a resolution of the school board approved by the Education Department :*
- (2.) *The regulations contained in the second schedule to this Act with respect to the election and retirement of the members of the school board, and the other matters therein contained, shall be of the same force as if they were enacted as part of this section :*
- (3.) *The Education Department may, at any time after the date at which they are authorised under this Act to cause a school board to be formed, send*

a requisition to the mayor or other officer or officers who have power to take proceedings for holding the election requiring him or them to take such proceedings, and the mayor or other officer or officers shall comply with such requisition ; and in case of default some person appointed by the Education Department may take such proceedings, and shall have for that purpose the same powers as the person in default.

Non-election, etc. of School Board.

32. *If from any cause in any school district the school board either are not elected at the time fixed for the first election, or at any time cease to be in existence, or to be of sufficient number to form a quorum by reason of non-election, resignation, or otherwise, or neglect or refuse to act, the Education Department may proceed in the same manner as if there were a school board acting in such district and that board were a board in default.*

Determination of Disputes as to the Election of School Boards.

33. *In case any question arises as to the right of any person to act as a member of a school board under this Act, the Education Department may, if they think fit, inquire into the circumstances of the case, and make such order as they deem just for determining the question, and such order shall be final unless removed by writ of certiorari during the term next after the making of such order.¹*

¹ Prior to its permanent repeal by the Education Act, 1902, this section had been temporarily repealed by the Municipal Elections (Corrupt and Illegal Practices) Act, 1884, an Act renewed from year to year by the Expiring Laws Continuance Acts.

Disqualification of Member of Board.

34. *No member of a school board, and no manager appointed by them, shall hold or accept any place of profit the appointment to which is vested in the school board or in any managers appointed by them, nor shall in any way share or be concerned in the profits of any bargain or contract with or any work done under the authority of such school board or managers appointed by them : Provided that this section shall not apply to—*

- (1.) Any sale of land or loan of money to a school board ; or,*
- (2.) Any bargain or contract made with or work done by a company in which such member holds shares ;*
- (3.) The insertion of any advertisement relating to the affairs of any such school board in any newspaper in which such member has a share or interest,*

if he does not vote with respect to such sale, loan, bargain, contract, work, or insertion.

Any person who acts in contravention of this section shall be liable, on summary conviction, to a penalty not exceeding fifty pounds, and the said place of profit and his office as member or manager shall be vacant.¹

¹ Sections 29 to 34 are repealed by the Education Act, 1902, except as regards London.

For disqualifications for membership of the local education authority, or of the education committee of that authority, under the Education Act, 1902, *see* §17 (4) of that Act, *ante*, and the notes thereon.

Appointment of Officers.

35. A school board may appoint *a clerk and a treasurer and other necessary officers, including the teachers required for any school provided by such board, to hold office during the pleasure of the board, and may assign them such salaries or remuneration (if any) as they think fit, and may from time to time remove any of such officers; but no such appointment shall be made, except at the first meeting of such board, unless notice in writing has been sent to every member of the board.*¹

Two or more school boards may arrange for the appointment of the same person to be an officer to both or all such boards.

Such officers shall perform such duties as may be assigned to them by the board or boards who appoint them.

¹ The words in italics are repealed by the Education Act, 1902, since they are unnecessary or inapplicable to the local education authorities constituted under that Act.

Subject to the repeal, this and the following section are to be read as though the references were to the local education authority, and not to the school board.

As to the transfer of the officers of school boards, including teachers in board schools, to the local education authority under the Education Act, 1902, *see* Schedule II. (16) and (17) of that Act.

Officer to enforce Attendance at School.

36. Every school board may, if they think fit, appoint an officer or officers to enforce any byelaws under this Act with reference to the attendance of children at school, and to bring children who are liable under the Industrial Schools Act, 1866, to be sent to a certified industrial school before two justices in order to their being so sent, and any expenses incurred under this section may be paid out of the school fund.¹

¹ The permissive power given by this section is strengthened into an obligation by §28 of the Elementary Education Act, 1876 (p. 296) as regards the execution of the provisions of that Act relating to school attendance and of any byelaws in force within the jurisdiction of the school board.

SCHOOL BOARD IN METROPOLIS.

School Board in Metropolis.

37. The provisions of this Act with respect to the formation and the election of school boards in boroughs and parishes shall not extend to the metropolis; and with respect to a school board in the metropolis the following provisions shall have effect:—

- (1.) The school board shall consist of such number of members elected by the divisions specified in the fifth schedule to this Act as the Education Department may by order fix:

- (2.) *The Education Department, as soon as may be after the passing of this Act, shall by order determine the boundaries of the said divisions for purposes of this Act, and the number of members to be elected by each such division :¹*
- (3.) The provisions of this Act with respect to the constitution of the school board shall extend to the constitution of the school board under this section, and the name of the school board shall be the School Board for London.
- (4.) The first election of the school board shall take place on such day, *as soon as may be after the passing of this Act¹* as the Education Department may appoint, and subsequent elections shall take place in the month of November every third year on the day from time to time appointed by the school board :
- (5.) At every election for each division every voter shall be entitled to a number of votes equal to the number of the members of the school board to be elected for such division, and may give all such votes to one candidate, or may distribute them among the candidates, as he thinks fit :
- (6.) Subject to the provisions contained in this section and in any order made by the Education Department under the power contained in the second schedule to this Act, the members of the board shall, in the city of London, be elected by the same persons and in like manner as common councilmen are elected, and in the other divisions of the metropolis shall be elected by the same persons and in the same manner as vestrymen under The Metropolis Management Act, 1855, and the Acts amending the same ; and, subject as aforesaid, the Acts relating to the election of common councilmen, and sections fourteen to nineteen, and twenty-one to twenty-seven, all inclusive, of The Metropolis Management Act, 1855, and section thirty-six of The Metropolis Management Amendment Act, 1862, shall, so far as is consistent with the tenor thereof, apply in the case of the election of members of the school board :
- (7.) The school board shall proceed at once to supply their district with sufficient public school accommodation, and any requisition sent by the Education Department to such board may relate to any of the divisions mentioned in the fifth schedule to this Act in like manner as if it were a school district, and it shall not be necessary for the Education Department to publish any notices before sending such requisition :
- (8.) The Education Department may, in the order fixing the boundaries of such divisions, name some person who shall be the returning officer for the purposes of the first election of the school board, and the person who is to be the deputy returning officer in each such division :

- (9.) The chairman of the school board shall be elected by the school board, and any chairman who may be elected by the board may be elected either from the members of the board or not, and any chairman who is not an elected member of the board shall, by virtue of his office, be a member of the board as if he had been so elected :
- (10.) *The school board shall apportion the amount required to be raised to meet the deficiency in the school fund among the different parts of the metropolis mentioned in the third column of the first schedule to this Act in proportion to the rateable value of such parts as shown by the valuation lists for the time being in force under 'The Valuation (Metropolis) Act, 1869,' or, if any amount is so required before any such valuation list comes into force, in the same proportion and according to the same basis in and according to which the then last rate made by the Metropolitan Board of Works was assessed :²*
- (11.) For obtaining payment of the amount specified in any precept sent by the school board to the rating authority for any part of the metropolis, the school board, in addition to any other powers and remedies, shall have the like powers as the Metropolitan Board of Works have for obtaining payment of any sum assessed by them on the same part of the metropolis.

¹ Subsection (2) and the words in italics in subsection (4) were repealed by the Statute Law Revision (No. 2) Act, 1893.

² This subsection is repealed by the Elementary Education Act, 1873, the substituted provisions being contained in §16 of that Act (p. 270).

Payment of Chairman.

38. The school board for London may pay to the chairman of such board such salary as they may from time to time, with the sanction of the Education Department, fix.

Alteration of number of Members.

39. If at any time application is made to the Education Department by the school board for London, or by any six members of that board, and it is shown to the satisfaction of the Education Department that the population of any of the divisions mentioned in the fifth schedule to this Act, as shown by any census taken under the authority of Parliament, has varied materially from that shown by the previous census, or that the rateable value of any of the said divisions has materially varied from the rateable value of the same division ten years previously, the Education Department, after such inquiry as they think necessary, may, if they think fit, make an order altering, by way of increase or decrease, the number of members of that and any other division.

UNITED SCHOOL DISTRICTS.¹*Formation by Education Department of United Districts.*

40. *Where the Education Department are of opinion that it would be expedient to form a school district larger than a borough or a parish or any school district formed under this Act, they may, except in the metropolis, by order made after such inquiry and notice as hereinafter mentioned, form a united school district by uniting any two or more adjoining school districts, and upon such union cause a school board to be formed for such united school district.*

A united school district shall for all the purposes of this Act be deemed to be a school district, and shall throughout this Act be deemed to be substituted for the school districts out of which it is constituted, and the school board of the united school district shall be the school board appointed under this Act, and the local rate and rating authority for the united district shall be in each of the constituent districts thereof the same as if such constituent district did not form part of the united school district.

¹ Sections 40 to 48 relating to united school districts are repealed by the Education Act, 1902.

Conditions of Formation of District.

41. *The Education Department, as soon as may be after the passing of this Act, may cause inquiry to be made into the expediency of uniting any two or more school districts, and if after such inquiry they are of opinion that it would be expedient to unite any such school districts, they shall in the notice of their decision as to the public school accommodation for such districts state that they propose to unite such districts, and the provisions of this Act with respect to the application for a public inquiry by persons aggrieved by the said notice, and to the holding of such public inquiry, and to the final notice, shall apply in the case of the proposed union of districts, with this qualification, that it shall not be necessary to cause a public inquiry to be held with respect to the union of districts until after the expiration of the period allowed by the final notice for the supply of the school accommodation. The order for the union may be made at the time when the Education Department are first authorised to cause a school board to be formed or subsequently. Where a union of districts is proposed the Education Department shall consider whether any public school accommodation is required for the area proposed as the united district instead of for each of the districts constituting such area, and their decision as to the public school accommodation and the notice of such decision shall accordingly refer to such area, and not separately to each of the constituent districts.*

As to Dissolution of United School District.

42. *The Education Department may, by order made after such inquiry and notice as hereinafter mentioned, dissolve a united school district, and may deal with the constituent districts thereof in the same manner as if they had never been united, and may cause school boards to be elected therein.*

Public Inquiry as to United District in Future.

43. *The Education Department may at any time, after any proceedings after the first returns under this Act, if they think fit, cause inquiry to be made into the expediency of forming or dissolving a united school district, and where they propose at any time after such inquiry to form or dissolve a united school district, they shall publish notice of the proposed order not less than three months before the order is made; the like persons as are authorised to apply for a public inquiry after the first returns made under this Act may, if they feel aggrieved by the proposed order, apply in like manner for a public inquiry, and the Education Department shall cause a public inquiry to be held, and shall consider the report made to them upon such inquiry before they make the order for such formation or dissolution.*

Order to be evidence of Formation or Dissolution.

44. *Any order of the Education Department forming or dissolving a united district shall be evidence of the formation or dissolution of such district, and after the expiration of three months from the date of such order the district shall be presumed to have been duly formed or dissolved, as the case may be, and no objection to the formation or dissolution thereof shall be entertained in any legal proceedings whatever.*

Constitution of School Board in United School District.

45. *The provision in this Act respecting the constitution of the school board shall apply to the constitution of the school board in a united school district, and the name of the district shall be such as may be prescribed by the Education Department.*

Election of School Board in United School District.

46. *In a united school district the school board shall be such number of members elected by the electors of the district as may be specified in the order forming the district, subject nevertheless to alteration in the same manner as in the case of any other school board; and every person who in any of the districts constituting such united district would be entitled if it were not united to vote at the election of members of a school board for such constituent district shall be an elector for the purposes of this section, and the provisions of this Act respecting the election of a school board in a district shall extend to the election of such members.*

Arrangements on Formation of United District.

47. *Where any part of a proposed united school district includes any district or part of a district in which there is a school board already acting under this Act, or where a united school district is dissolved, the Education Department may by order dissolve the then existing school board, or make all necessary changes in the constitution of such existing school board, and may by order make proper arrangements respecting the schools, property, rights, and liabilities of such board, and all arrangements which may be necessary.*

As to Small Parishes.

48. *If the Education Department are of opinion that any parish in a united school district has too few ratepayers to be entitled to act as a separate parish for the purposes of this Act, they may by order direct that it shall for the purpose of voting for a member or members of the school board, and for all or any of the purposes of this Act, be added to another parish, and thereupon the persons who would be entitled to vote and attend the vestry if it were a parish shall be entitled for the purpose of voting and for such purposes to vote in and attend the vestry of the parish to which their parish is so added. All the parishes comprised in a united district, or any two or more of them, may be added together in pursuance of this section.*

CONTRIBUTORY DISTRICTS.¹*Contributory District.*

49. *The Education Department may by order direct that one school district shall contribute towards the provision or maintenance of public elementary schools in another school district or districts, and in such case the former (or contributing district) shall pay to the latter (or school owning district or districts) such proportion of the expenses of such provision or maintenance or a sum calculated in such manner as the Education Department may from time to time prescribe.*

¹ Sections 49 to 51, which relate to contributory districts, are repealed by the Education Act, 1902, *ante*.

For the financial adjustments which may be necessary in certain cases where one school district is, at the appointed day under that Act, contributory to another under the sections now repealed, see note 5 to §18 (1) and Schedule II. (22) thereof.

Election of Members by Contributory District.

50. *Where one school district contributes to the provision or maintenance of any school in another school district, such number of persons as the Education Department (having regard to the amount to be contributed by the contributing district) direct shall be elected in the contributing district, and shall be members of the school board of the school owning district, but such last-mentioned district shall, except so far as regards the raising of money and the attendance of children at school, be deemed alone to be the district of such school board; such members shall be elected by the school board, if any, or, if there is none, by the persons who would elect a school board if there were one, in the same manner as a school board would be elected.*

Notices and Public Inquiry as to Contributory District.

51. *The provisions of this Act with respect to the notices to be published, and the application for and the holding of a public inquiry in the case of an order for the formation of an united district, shall apply, mutatis mutandis, to an order respecting a contributory district.*

An order respecting a contributory district shall be evidence of the formation

of such district, and after the expiration of three months from the date thereof shall be presumed to have been duly made, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Any such order may be revoked or altered by an order of the Education Department, and a new order may be made in lieu thereof, and all the provisions of this Act respecting the making of an order for contribution shall apply to the making of an order for the revocation or alteration of an order for contribution.

Combination of School Boards.

52. The school boards of any two or more school districts, with the sanction of the Education Department, may combine together for any purpose relating to elementary schools in such districts, and in particular may combine for the purpose of providing, maintaining, and keeping efficient schools common to such districts. Such agreements may provide for the appointment of a joint body of managers *under the provisions of this Act with respect to the appointment of a body of managers*, and for the proportion of the contributions to be paid by each school district, and any other matters which, in the opinion of the Education Department, are necessary for carrying out such agreement, and the expenses of such joint body of managers shall be paid in the proportions specified in the agreement by each of the school boards out of their school fund.¹

¹ The powers given to school boards by this section are transferred by § 5 of the Education Act, 1902, to the local education authorities constituted under that Act, and further powers for the joint carrying out of the provisions of the Act are conferred upon the authorities by §§17 (5) and 20 (a).

For the effect of the Education Act, 1902, upon combination agreements existing at the appointed day under that Act, see note 5 to §18 (1) and Schedule II. (22) thereof.

EXPENSES.¹

School Fund of School Board.

53. *The expenses of the school board under this Act shall be paid out of a fund called the school fund. There shall be carried to the school fund all moneys received as fees from scholars, or out of moneys provided by Parliament, or raised by way of loan, or in any manner whatever received by the school board,² and any deficiency shall be raised by the school board as provided by this Act.*

¹ Sections 53 to 58, which relate to expenses, are all (except §57 which had been repealed previously, and §58 which relates to London) repealed by the Education Act, 1902.

² See §13 of the Elementary Education Act, 1873, and the note thereon (p. 269).

Deficiency of School Fund raised out of Rates.

54. *Any sum required to meet any deficiency in the school fund, whether for satisfying past or future liabilities, shall be paid by the rating authority out of the local rate.*

The school board may serve their precept on the rating authority, requiring such authority to pay the amount specified therein to the treasurer of the school board out of the local rate, and such rating authority shall pay the same accordingly, and the receipt of such treasurer shall be a good discharge for the amount so paid, and the same shall be carried to the school fund.

If the rating authority have no monies in their hands in respect of the local rate, they shall, or if they have paid the amount then for the purpose of reimbursing themselves they may, notwithstanding any limit under any Act of Parliament or otherwise, levy the said rate or any contributions thereto, or any increase of the said rate or contributions, and for that purpose shall have the same powers of levying a rate and requiring contributions as they have for the purpose of defraying expenses to which the local rate is ordinarily applicable.

Apportionment of School Fund in United and Contributory District.

55. *In a united district the school board shall apportion the amount required to meet the deficiency in the school fund among the districts constituting such united district in proportion to the rateable value of each such constituent district, and may raise the same by a precept sent to the rating authority of each constituent district.*

Where one school district contributes to the expenses of the schools in another school district, the authority of the school owning district may send their precept either to the school board, if any, or to the rating authority of the contributing district, requiring them to pay to their treasurer the amount therein specified, and such authority or board shall pay the same accordingly, and the receipt of the treasurer shall be a good discharge for the same, and such amount, if paid by the school board, shall be paid out of the school fund.

The precept, if sent to the rating authority, either on the default of the school board or otherwise, shall be deemed to be a precept for meeting a deficiency in the school fund, and the provisions of this Act shall apply accordingly.

Remedy of School Board on default of Rating Authority, etc.

56. *In either of the following cases, that is to say,*

- (1.) If the rating authority of any place make default in paying the amount specified in any precept of the school board ; or*
- (2.) Where a school board require to raise a sum from any place which is part of a parish,*

then, without prejudice to any other remedy, the school board may appoint an officer or officers to act within such place ; and the officer or officers so from time to time appointed shall have within the said place, for the purpose of defraying the sum due from such place, all the powers of the rating authority of levying the local rate and any contributions thereto, and also all the powers of making and levying a rate which he or they would have if the said place were a parish, and such rate were a rate for the relief of the poor, and he or they were duly appointed an overseer or overseers of such parish, and he and they shall have such access to and use of the

documents of the rating authority of such place relative to the local rate, and of all the valuation lists and rate books of the parish or parishes comprised in or comprising such place, as he or they may require.

Borrowing by School Board.

57. *Where a school board incur any expense in providing or enlarging a schoolhouse, they may, with the consent of the Education Department, spread the payment over several years, not exceeding fifty, and may for that purpose borrow money on the security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed, with the interest, by equal annual instalments, not exceeding fifty, and if they do not so agree, they shall annually set aside one fiftieth of the sum borrowed as a sinking fund.*

For the purpose of such borrowing the clauses of 'The Commissioners Clauses Act, 1847,' with respect to the mortgages to be executed by the commissioners shall be incorporated with this Act; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners.

The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within a period not exceeding fifty years, and to bear interest at the rate of three and a half per centum per annum.¹

¹ This section was repealed by the Elementary Education Act, 1873, and replaced by §10 of that Act, which section is itself repealed (except as regards London) by the Education Act, 1902 (see §19 of that Act, and the note thereon).

Borrowing by School Board for London.

58. *Any sum borrowed by the school board for London in pursuance of this Act, with the approval of the Education Department, may be borrowed from and may be lent by the Metropolitan Board of Works, and section thirty-seven of the Metropolitan Board of Works Loan Act, 1869, shall apply to such loans in the same manner as if the managers therein mentioned were the school board for London, and there were added to the sum therein authorised to be borrowed the sum authorised by the Education Department to be borrowed under this section.¹*

¹ The powers, duties, property, debts, and liabilities of the Metropolitan Board of Works were transferred to the London County Council by §40 of the Local Government Act, 1888.

ACCOUNTS AND AUDIT.¹

Accounts to be made up and examined.

59. *The accounts of the school board shall be made up and balanced to the twenty-fifth of March and twenty-ninth of September in every year. The accounts*

shall be examined by the school board and signed by the chairman within fourteen days after the day to which they are made up.

*As soon as practicable after the accounts are so signed they shall be audited.*²

¹ Sections 59 to 62 which relate to accounts and audit are all (except §59, and parts of §60, which had been previously repealed) repealed by the Education Act, 1902. As regards the audit of the accounts of the local education authorities constituted by that Act, see note 9 to §18 (3) thereof, *ante*.

² This section was replaced by §17 of the Elementary Education Act, 1873 (see p. 271), which is now repealed by the Education Act, 1902.

Audit of Accounts.

60. *With respect to the audit of accounts of the school board the following provisions shall have effect :*

- (1.) *The auditor shall be the auditor of accounts relating to the relief of the poor for the audit district in which the school district is situate, or if it is situate in more than one audit district by the auditor of such of the said audit districts as the Poor Law Board may direct, and the term audit district in this provision shall be construed to include a parish for which an auditor is separately appointed to audit the accounts for the relief of the poor. The auditor shall receive such remuneration as the Poor Law Board direct, and such remuneration, together with the expenses of or incident to the audit, shall be paid by the school board out of the school fund, and if unpaid may be recovered in a summary manner.*¹
- (2.) *The audit shall be held at the office of the school board, or some other place sanctioned by the Poor Law Board within the school district, or within the union within which the school district or some part thereof is situate, and at a time which is fixed by the auditor, but which shall be as soon as may be after the account is signed by the chairman :*
- (3.) *The auditor, at least fourteen days before holding the audit, shall serve on the school board, and publish notice of the time and place of holding the same :*
- (4.) *The clerk of the school board, or some person authorised by the school board, shall attend the audit, and produce to the auditor all books, bills, vouchers, and documents relating to the account :*
- (5.) *Any ratepayer of the school district may be present at the audit, and may object to the account :*
- (6.) *The auditor shall, as nearly as may be, have the like powers and be under the like obligation to allow and disallow items in the account, and to charge the school board, or any member or officer thereof, or any person accountable to them or him, with any sum for which they or he may be accountable, as in the case of an audit of the accounts relating to the relief of the poor in any union or parish ; and any person aggrieved by the decision of the auditor shall have the like rights and remedies as in the case of such last-mentioned audit :*
- (7.) *The auditor shall have the like powers of requiring the attendance of*

persons, the production of books, bills, vouchers, and documents, and a declaration respecting vouchers and documents, as in the case of such last-mentioned audit : and any person who refuses or neglects to comply with any such requisition, or wilfully makes or signs a false declaration so required, shall be liable to the same penalties as in the case of such last-mentioned audit :

- (8) Any moneys, books, documents, and chattels certified by the auditor to be due from any person may be recovered from such person in like manner as in the case of such last-mentioned audit, and the expenses incurred in such recovery shall be deemed to be part of the expenses of the audit :
- (9) Subject to the provisions of this section, the Poor Law Board may from time to time make such regulations as may be necessary respecting the form of keeping the accounts and the audit thereof.²

¹ Part of subsection (1) of this section, viz. : from the words 'in which the school 'district' to the end of the subsection, was repealed by the District Auditors Act, 1879, which substituted another manner for determining the auditor by whom the accounts of the school board were to be audited, and another mode of remunerating the auditor.

² Subsection (9) was repealed by the Elementary Education Act, 1873, and the substituted provisions, contained in §18 of that Act (p. 271), are themselves repealed by the Education Act, 1902.

Penalty for improper payment of Surcharge.

61. Any member or officer of a school board, or manager appointed by them, who authorises or makes, or concurs in authorising or making, any payment or any entry in accounts for the purpose of defraying or making up to himself or any other person the whole or any part of any sum of money unlawfully expended from the school fund, or disallowed or surcharged by any auditor, shall, on summary conviction, be liable to pay a penalty not exceeding twenty pounds and double the amount of such sum.

Publication of Accounts.

62. When the auditor has completed the audit he shall sign the balance sheet. The school board shall cause a statement showing their receipts and expenditure to be printed in such form and with such particulars as may be from time to time prescribed by the Education Department, and shall send the same within thirty days after the balance sheet is signed by the auditor to each member of the rating authority and to the overseers of every parish in the district, and to the Education Department ; and the school board may, if they think fit, publish such statement or an abstract thereof in any local newspaper or newspapers circulating in the district, and shall furnish a copy of such statement to any ratepayer in the district, on his application, and on the payment of a sum not exceeding sixpence.

DEFAULTING SCHOOL BOARD.¹*Proceeding on default by School Board.*

63. *Where the Education Department are, after such inquiry as they think sufficient, satisfied that a school board is in default as mentioned in this Act, they may by order declare such board to be in default, and by the same or any other order appoint any persons, not less than five or more than fifteen, to be members of such school board, and may from time to time remove any member so appointed, and fill up any vacancy in the number of such members whether caused by removal, resignation, death, or otherwise, and, subject as aforesaid, add to or diminish the number of such members.*

After the date of the order of appointment the persons (if any) who were previously members of the school board shall be deemed to have vacated their offices as if they were dead, but any such member may be appointed a member by the Education Department. The members so appointed by the Education Department shall be deemed to be members of the school board in the same manner in all respects as if, by election or otherwise, they had duly become members of the school board under the other provisions of this Act, and may perform all the duties and exercise all the powers of the school board under this Act.

The members appointed by the Education Department shall hold office during the pleasure of the Education Department, and when that Department consider that the said default has been remedied, and everything necessary for that purpose has been carried into effect, they may, by order, direct that members be elected for the school board in the same manner as in the case of the first formation of the school board. After the date fixed by any such order the members appointed by the Education Department shall cease to be members of the school board, and the members so elected shall be members of the school board in their room, but the members appointed by the school board shall not be disqualified from being so elected. Until any such order is made no person shall become a member of the school board otherwise than by the appointment of the Education Department.

Where a school board is not elected at the time fixed for the first election, or has ceased to be in existence, the Education Department may proceed in the same manner as if such board had been elected and were in existence.

¹ Sections 63 to 66, which relate to a defaulting school board, are repealed by the Education Act, 1902. For the substituted remedy in case of failure on the part of the local education authority to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900, or that Act, see §16 of the Act, *ante*, and the note thereon.

Certificate of Education Department as to Appointment, Expenses, and Loans.

64. *The Education Department may from time to time certify the appointment of any persons appointed to be members of a school board in default, and the amount of expenses that have been incurred by such persons, and the amount of any loan required to be raised for the purpose of defraying any expenses so incurred, or estimated as about to be incurred; and such certificate shall be conclusive evidence*

that all the requirements of this Act have been duly complied with, and that the persons so appointed have been duly appointed, and that the amounts therein mentioned have been incurred or are required.

Expenses incurred on Default.

65. *The expenses incurred in the performance of their duties by the persons appointed by the Education Department to be members of a school board, including such remuneration (if any) as the Education Department may assign to such persons shall, together with all expenses incurred by the board, be paid out of the school fund; and any deficiency in the school fund may be raised by the school board as provided by this Act; and where the Education Department have, either before or after the payment of such expenses, certified that any expenses have been incurred by a school board, or any members appointed by them, such expenses shall be deemed to have been so incurred, and to have been properly paid out of the school fund.*

Where the members of a school board have been appointed by the Education Department, such school board shall not borrow or charge the school fund with the principal and interest of any loan exceeding such amount as the Education Department certify as mentioned in this Act to be required.

Dissolution of School Boards.

66. *Where the Education Department are of opinion that in the case of any school district the school board for such district are in default, or are not properly performing their duties under this Act, they may by order direct that the then members of the school board of such district shall vacate their seats, and that the vacancies shall be filled by a new election; and after the date fixed by any such order the then members of such board shall be deemed to have vacated their seats, and a new election shall be held in the same manner, and the Education Department shall take the same proceedings for the purpose of such election as if it were the first election; and all the provisions of this Act relating to such first election shall apply accordingly.*

The Education Department shall cause to be laid before both Houses of Parliament in every year a special report stating the cases in which they have made any order under this section during the preceding year, and their reasons for making such order.¹

¹ See the note to §63, *supra*.

RETURNS AND INQUIRY.

Returns by Local Authority.

67. *On or before the first day of January one thousand eight hundred and seventy-one, or in the case of the metropolis before the expiration of four months from the date of the election of the chairman of the school board, every local authority hereinafter mentioned, and subsequently any such local authority whenever required by the Education Department, but not oftener than once in every year, shall send to the Education Department a return containing*

such particulars with respect to the elementary schools and children requiring elementary education in their district as the Education Department may from time to time require.¹

¹ The words in *italics* in this section were repealed by the Statute Law Revision (No. 2) Act, 1893. As to the returns required by the section, *see* note to §69, *infra*.

Mode of obtaining Returns.

68. For the purpose of obtaining such returns the Education Department shall draw up forms, and supply to the local authority such number of forms as may be required; and the managers or principal teacher of every school required to be included in any such return shall fill up the form, and return the same to the local authority within the time specified in that behalf in the form.¹

¹ *See* note to §69, *infra*.

Local Authorities to make Returns.

69. The returns shall be made *in the metropolis* by the school board appointed under this Act, *in boroughs* by the council, and *in every parish not situated in a borough or the metropolis* by persons appointed for the purpose or by the overseers of such parish. *Where a school board is formed under this Act, the returns shall be made by such school board within their district, instead of by the council, persons appointed as aforesaid, or overseers, as the case may be.*

The persons appointed for the purpose may be appointed as follows: namely, the Education Department may, if they think fit, send to the overseers or other officers who have power to summon a vestry in such parish a requisition to summon, and such overseers or other officers shall summon, a vestry in such parish for the purpose of this section; and such vestry shall appoint two or more persons who shall be the local authority for the purpose of the returns under this Act.

The local authority may, with the sanction of the Education Department, employ persons to assist in making such returns, and may pay those persons such remuneration as the Treasury may sanction. That remuneration, and all such other reasonable expenses incurred by the local authority in making such returns as the Treasury may sanction, shall be paid by the Education Department.

¹ Sections 67 to 69 primarily related to the returns required by the Education Department under §8 of the Act for the purpose of determining the amount of public school accommodation, if any, required for any school district. §95 of this Act gave the Education Department much wider powers of obtaining returns from school boards, and §43 of the Elementary Education Act, 1876, extended these powers so as to make them applicable to local authorities other than school boards, *i.e.* to school attendance committees. This latter section is now repealed by the Education Act, 1902, and the duties both of school boards and of school attendance committees under all these sections are imposed by §5 of that Act on the local education authority.

With regard to the repeal by the Education Act, 1902, of the greater part of the first two paragraphs of this section, it may be pointed out that the local education authority acting under Part III. of that Act will throughout their area have the duties of a school board, and the obligation to make such returns as are referred to in the section will therefore be imposed upon the local education authority by the words which remain unrepealed.

Proceedings on Default of Authority to make Returns.

70. If any local authority fail to make the returns required under this Act, the Education Department may appoint any person or persons to make such returns, and the person or persons so appointed shall for that purpose have the same powers and authorities as the local authority.¹

¹ See note to §72, *infra*, and §19 of the Elementary Education Act, 1873 (p. 271).

Inquiry by Inspectors of Education Department.

71. The Education Department may appoint any persons to act as inspectors of returns, who shall proceed to inquire into the accuracy and completeness of any one or more returns made in pursuance of this Act, and into the efficiency and suitability of any school mentioned in any such return, or which ought to have been mentioned therein, and to inspect and examine the scholars in every such school. Where there is no return the inspector shall proceed as if there had been a defective return.¹

¹ See note to §72, *infra*.

Refusal to fill up Forms and to admit Inspectors.

72. If the managers or teacher of any school refuse or neglect to fill up the form required for the said return, or refuse to allow the inspector to inspect the schoolhouse or examine any scholar, or examine the school books and registers, or make copies or extracts therefrom, such school shall not be taken into consideration among the schools giving efficient elementary education to the district.¹

¹ The power of appointing an 'Inspector of Returns' still remains with the Board of Education, and the powers given under §70 are an alternative to the powers given to the Board of Education under §16 of the Education Act, 1902, in cases where the local education authority fail to fulfil their duties under the Elementary Education Acts.

PUBLIC INQUIRY.

Public Inquiry.

73. Where a public inquiry is held in pursuance of the provisions of this Act the following provisions shall have effect:—

- (1) The Education Department shall appoint some person who shall proceed to hold the inquiry:
- (2) The person so appointed shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the school district to which the subject of inquiry relates, and thereat shall hear, receive, and examine any evidence and information offered, and hear and inquire into any objections or representations made respecting the subject of the inquiry, with power from time to time to adjourn any sitting.

Notice shall be published in such manner as the Education Department direct of every such sitting (except an adjourned sitting) seven days at least before the holding thereof:

- (3) The person so appointed shall make a report in writing to the Education Department setting forth the result of the inquiry and stating his opinion on the subject thereof, and his reasons for such opinion, and the objections and representations, if any, made on the inquiry, and his opinion thereof; and the Education Department shall cause a copy of such report to be deposited with the school board (*if any*), or, *if there is none, the town clerk of the borough, or the churchwardens or overseers of the parishes to which the inquiry relates*, and notice of such deposit to be published:
- (4) The Education Department may make an order directing that the costs of the proceedings and inquiry shall be paid, according as they think just, either by the district as if they were expenses of a school board, or by the applicants for the inquiry; and such costs may be recovered, in the former case as a debt due from the school board, or, *if there is no school board, as a debt due from the rating authority*, and, in the case of the applicants, as a debt due jointly and severally from them; and the Education Department may, if they think fit, before ordering the inquiry to be held, require the applicants to give security for such expenses, and in case of their refusal may refuse to order the inquiry to be held.¹

¹ The repeals in this section are consequential upon the general substitution of the local education authorities and areas under the Education Act, 1902, for the school boards and school districts established by the Elementary Education Acts.

Section 23 (10) of the Education Act, 1902, *ante*, provides that the Board of Education may, if they think fit, hold a public inquiry for the purpose of the exercise of any of their powers or the performance of any of their duties under that Act, and that §73 of the Elementary Education Act, 1870, shall apply to any public inquiry so held, or held under any other provision of that [1902] Act.

ATTENDANCE AT SCHOOL.

*As to Attendance of Children at School.*¹

74. Every school board² may³ from time to time, with the approval⁴ of the Education Department, make byelaws⁵ for all or any of the following purposes⁶ :—

- (1) Requiring the parents⁷ of children⁸ of such age, not less than five⁹ years nor more than *thirteen*¹⁰ years, as may be fixed by the byelaws, to cause such children (unless there is some reasonable excuse)¹¹ to attend school:¹²
- (2) Determining the time during which children are so to attend school;¹³ provided that no such byelaw shall prevent the withdrawal of any child from any religious observance or instruction in religious subjects,¹⁴ or shall require any child to attend school on any day exclusively set apart for religious observance by the religious

body to which his parent belongs,¹⁵ or shall be contrary to anything contained in any Act for regulating the education of children employed in labour :¹⁶

- (3) Providing for the remission *or* payment of the whole or any part of the fees of any child where the parent satisfies the school board that he is unable from poverty to pay the same :¹⁷
- (4) Imposing penalties for the breach of any byelaws :¹⁸
- (5) Revoking or altering any byelaw previously made.¹⁹

Provided that any byelaw under this section requiring a child between *ten*²⁰ and *thirteen*²¹ years of age to attend school shall provide for the total²² or partial²³ exemption of such child from the obligation to attend school if one of Her Majesty's inspectors certifies²⁴ that such child has reached²⁵ a standard of education specified in such byelaw.²⁶

Any of the following reasons shall be a reasonable excuse ;²⁷ namely,

- (1) That the child is under efficient instruction in some other manner :²⁸
- (2) That the child has been prevented from attending school by sickness or any unavoidable cause :
- (3) That there is no public elementary school open which the child can attend within such distance, not exceeding three miles, measured according to the nearest road from the residence of such child, as the byelaws may prescribe.²⁹

The school board, not less than one month before submitting any byelaw under this section for the approval of the Education Department, shall deposit a printed copy of the proposed byelaws at their office for inspection by any ratepayer, and supply a printed copy thereof gratis to any ratepayer, and shall publish a notice of such deposit.

The Education Department before approving of any byelaws shall be satisfied that such deposit has been made and notice published, and shall cause such inquiry to be made in the school district as they think requisite.³⁰

Any proceeding to enforce any byelaw may be taken, and any penalty for the breach of any byelaw may be recovered, in a summary manner ; but no penalty imposed for the breach of any byelaw shall exceed such amount as with the costs will amount to *five* shillings³¹ for each offence, and such byelaws shall not come into operation until they have been sanctioned by *Her Majesty in Council*.³²

It shall be lawful for *Her Majesty, by Order in Council*,³² to sanction the said byelaws, and thereupon the same shall have effect as if they were enacted in this Act.

All byelaws sanctioned by *Her Majesty in Council*³² under this section shall be set out in an appendix to the Annual Report of the Education Department.

¹ This section still regulates the form which byelaws for school attendance must take and the procedure for making them, though several of its provisions, as noted in detail below, have been extended or rendered obsolete by later legislation.

For a summary of the law of school attendance under the Elementary Education Acts, 1870 to 1900, the model form of byelaws, and the revised regulations of the

Board of Education as to certificates of age, proficiency, and school attendance, *see* the Appendix to the Elementary Education Act, 1900 (p. 331 *et seqq.*).

² The powers and duties of school boards under this section, as amended by subsequent provisions of the Elementary Education Acts, are transferred by the Education Act, 1902, to the local education authorities acting under Part III. of that Act.

³ It will be noted that under this Act byelaws could only be made for any school district for which there was a school board, and even in such districts the power given to school boards was permissive only. The Elementary Education Act, 1876, §§7 and 21 (pp. 282 and 293), established school attendance committees for areas comprising school districts for which there were no school boards, and gave them similar power, subject to certain conditions, to make byelaws for the whole or for portions of their area. The Elementary Education Act, 1880, §2, p. 311, made it obligatory on local authorities (school boards and school attendance committees) to make byelaws for any school district within their jurisdiction, in which byelaws were not at the passing of that Act in force, and gave power to the Education Department to enforce the fulfilment of this obligation.

⁴ The Board of Education will not approve byelaws which do not follow the model form. For the model form of byelaws, *see* the Appendix to the Elementary Education Act, 1900 (p. 331).

As to the procedure for obtaining the approval of the Board of Education to the byelaws, *see* the latter part of this section, and the notes thereon, *infra*.

⁵ Schedule III. (5) of the Education Act, 1902, provides that the power of making byelaws shall (where the local education authority is a county council) include a power of making different byelaws for different parts of the area of the authority.

⁶ It may be noted that the prohibition of the employment of children who are not exempt from school attendance, and the imposition of penalties for such employment, are not included by this Act among the purposes for which byelaws may be made thereunder. Such prohibition, and such imposition of penalties, were first enacted by §§5 and 6 of the Elementary Education Act, 1876. The requirements, however, of byelaws made under this section (74) become applicable for the purpose of prohibiting or punishing such employment, in virtue of the provisions of §4 of the Elementary Education Act, 1880 (p. 312), and of §2 of the Elementary Education (School Attendance) Act, 1893 (p. 323).

⁷ For definition of 'parent,' *see* §3, *supra*, and the note thereon.

⁸ The only definition of 'child' given in the Elementary Education Acts is that in §48 of the Elementary Education Act, 1876, which provides that in that Act a 'child' means a child between the ages of five and fourteen years.

⁹ There is no authority either in this section or in any other provision of the Elementary Education Acts, for enforcing the attendance at school of children under five years of age. Neither will the Board of Education approve byelaws fixing any higher age than five, as the age before which children need not be required to attend school.

¹⁰ Section 6 (1) of the Elementary Education Act, 1900, provides that in §74 of the Elementary Education Act, 1870, and in §4 of the Elementary Education Act, 1880 (which relate to byelaws for the attendance of children at school), fourteen years shall be substituted for thirteen years. *See* the note to the first-mentioned section (p. 329).

¹¹ As to 'reasonable excuse,' *see* note 26 *infra*.

¹² 'School' is defined in the model form of byelaws to mean a 'certified efficient school.' For the meaning of this expression, *see* §48 of the Elementary Education Act, 1876 (p. 304).

¹³ The model form of byelaws provides that the time during which every child shall attend school shall be the whole time for which the school selected shall be open for the instruction of children of similar age.

With regard to the question whether the parent of a child withdrawn from religious instruction who, though separate secular instruction is provided for him at the school during the time for religious instruction, nevertheless absents himself from school during that time in order to attend religious instruction elsewhere, is liable to prosecution and conviction under the byelaws, on the ground that such child does not attend during the whole time for which the school is open, the Board of Education

have stated that the question is one to be decided by the magistrates, in the event of a prosecution being instituted.

Where a byelaw required a child to attend school during a longer time than that provided in the Workshop Regulation Act, 1867, it was held that it was not sufficient for a child employed in a workshop to comply with the provisions in the Act, but that he must also comply with the byelaw (*Bury v. Cherryholme*, L. R. 1 Ex. D. 457).

The byelaws cannot compel the doing of lessons at home out of school hours, and the detention of a child at school out of school hours for not doing home lessons is unlawful (*Hunter v. Johnson*, 13 Q. B. D. 225).

¹⁴ As to the withdrawal of the child from any religious observance or instruction in religious subjects, *see* §7, *supra*, and the notes thereon.

¹⁵ The question has frequently been raised whether Ascension Day is a 'day exclusively set apart for religious observance' by the Church of England. This question does not appear ever to have been decided, but it would be open to the magistrates, in the event of a prosecution being instituted against the parent of a child attending church and being absent from school on Ascension Day, to hold that there was a reasonable excuse (*see* note 26, *infra*,) for non-attendance at school. The only difficulty which appears to arise in practice in connection with this question lies in the fact that the failure to attend school may disqualify, or tend to disqualify, the child from winning a prize for attendance. To meet this difficulty, the School Board for London determined in 1897 to regard punctual attendance at church on Ascension Day and other such days as an attendance for the purpose of such prizes, but this example does not appear to have been very generally followed by other school boards.

¹⁶ Section 71 (1) of the Factory and Workshop Act, 1901 (p. 339), provides that when a child of the age of thirteen years has obtained from a person authorised by the Board of Education a certificate of having attained such standard of proficiency in reading, writing, and arithmetic, or such standard of previous due attendance as is mentioned in that section, that child shall be deemed to be a 'young person' for the purposes of that Act.

¹⁷ This subsection has been virtually inoperative since the Elementary Education Act, 1891, came into operation (pp. 317 to 322), and no reference to it is contained in the Board of Education's model form of byelaws (p. 331).

It may be noted with regard to the words 'or payment' in this subsection that §25 of this Act (which provided for the payment of school fees by a school board) was repealed by the Elementary Education Act, 1876 (*see* Schedule IV. of that Act, p. 310), together with so much of §74 and of any byelaw made thereunder as was affected by that repeal.

¹⁸ For penalty for breach of any byelaw, *see* note 31 *infra*.

¹⁹ Any byelaws made for the purpose of revoking or altering byelaws previously made must be effected with the same formalities as are required to enact byelaws in the first instance.

²⁰ The age at which total or partial exemption from school attendance could be obtained under the byelaws was raised to eleven by the Elementary Education (School Attendance) Act, 1893 (p. 323), and to twelve by Robson's Act (p. 325), subject, in the case of the last-mentioned Act, to the exception as regards children to be employed in agriculture, which may be made under the second proviso in §1 of the Act.

²¹ *See* note 10, *supra*.

²² The Board of Education do not now approve byelaws in which a lower standard than the fifth is fixed for the purpose of total exemption.

For the standards of examination in reading, writing, and arithmetic prescribed by the Code, *see* p. 600.

²³ The Board of Education do not as a rule approve byelaws in which a lower standard than the fourth is fixed for partial exemption.

As to partial exemption, *see* also the notes to the second and third provisos in §1 of Robson's Act (p. 325).

²⁴ *See* Rules 4 to 8 of the Revised Regulations of the 21st March 1901 (p. 342).

²⁵ To reach a standard a child must be individually examined by H. M. Inspector in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.

²⁶ As to the obligation to provide by byelaw for total or partial exemption on a

'proficiency' or on an 'attendance' qualification, *see* notes 10 to 14 to the model form of byelaws (p. 335).

²⁷ The cases *Belper School Attendance Committee v. Bayley* (9 Q. B. D., 259) and *London School Board v. Duggan* (13 Q. B. D., 176) have established the fact that there may be a 'reasonable excuse' other than one of those specified in this section (*see* p. 286).

²⁸ It sometimes happens that children attend elementary schools, such as private adventure schools, which are not certified efficient schools within the meaning of §48 of the Elementary Education Act, 1876. If the local authority (school board or school attendance committee) were in doubt in such a case whether the school is in fact an efficient one, they have usually brought the case to the notice of the Board of Education, who instruct His Majesty's Inspector to try to make arrangements to visit the school with a view to determining its efficiency. If the managers or teacher of the school object to receive such a visit from the inspector, the next step is for the local authority to institute proceedings under the byelaws, when it rests with the parent to prove that the instruction which the child is receiving is 'efficient.' *See* §24 (7) and (8) of the Elementary Education Act, 1873 (p. 274).

²⁹ Two miles is the distance usually prescribed by the byelaws for this purpose, but in towns a less distance, and in rural districts a greater distance (up to three miles), is sometimes prescribed.

³⁰ As to the procedure required to be followed in making and depositing byelaws and in submitting them for approval, *see* note 16 to the model form of byelaws, (p. 336).

³¹ As to proceedings before a court of summary jurisdiction for offences and penalties under this Act, *see* §24 (3) to (9) of the Elementary Education Act, 1873, (p. 274). The costs mentioned in the section do not include the costs of a distress to enforce payment (*Cook v. Plaskett*, 47 J. P. 265).

As to the question whether an information for a breach of a byelaw under this section relates to a criminal matter, *see* the note to §92, *infra* (p. 256).

The Elementary Education Act, 1900, §6 (2) (p. 329), provides that the maximum penalty for the breach of a byelaw requiring the attendance of a child at an elementary school shall be twenty shillings, and that accordingly twenty shillings shall be substituted for five shillings in §74 of the Elementary Education Act, 1870.

³² The Elementary Education Act, 1900, §6 (3) (p. 329) provided that §74 of this Act should have effect as if the sanction therein referred to were the sanction of the Board of Education instead of the sanction of Her Majesty in Council.

MISCELLANEOUS.

Application of Small Endowments.

75. Where any school or any endowment of a school was excepted from the Endowed Schools Act, 1869, on the ground that such school was at the commencement of that Act in receipt of an annual parliamentary grant, the governing body (as defined by that Act) of such school or endowment may frame and submit to the Education Department a scheme respecting such school or endowment.

The Education Department may approve such scheme with or without any modifications as they think fit.

The same powers may be exercised by means of such scheme as may be exercised by means of any scheme under the Endowed Schools Act, 1869; and such scheme, when approved by the Education Department, shall have effect as if it were a scheme made under that Act.

A certificate of the Education Department that a school was at the commencement of the Endowed Schools Act, 1869, in receipt of an annual

parliamentary grant shall be conclusive evidence of that fact for all purposes.¹

¹ Section 8 of the Endowed Schools Act, 1869 (p. 417), prevents that Act from applying to any school which on the 2nd August 1869 was in receipt of an annual grant out of money appropriated by Parliament 'for public education in Great Britain,' or to the endowment thereof. Section 3 of the Endowed Schools Act, 1873 (p. 435), extends the application of this section and makes it apply to endowed schools not being grammar schools which were on the 1st September 1873 elementary schools within the meaning of this Act, and the gross average annual income of the aggregate educational endowments of which, during the three years preceding 1st September 1873, did not exceed £100.

As to the endowments thus excepted from the operation of the Endowed Schools Act, 1869, §12 (2) of the Welsh Intermediate Education Act, 1889 (p. 453), provides that if the school is in the county of a joint education committee under that Act, it shall be an endowed school within the county of such committee for the purposes of the Endowed Schools Acts and that Act.

The powers of the Charity Commissioners under the Endowed Schools and Charitable Trusts Acts have now been transferred to the Board of Education in respect of endowments which are solely educational (*see* p. 392). The combined effect of §78, *infra*, and of the Board of Education Act, 1899 (p. 391), and the Orders in Council made thereunder, is to enable the Board of Education to initiate and frame schemes in respect of any elementary school in cases which come within §54 of the Charitable Trusts Act, 1853, and the exceptions and provisions contained in §14 and §19 of the Endowed Schools Act, 1869 (p. 420), and §7 of the Endowed Schools Act, 1873 (p. 437), will not apply to schemes so made as they would apply to schemes made under this section.

*Inspection of Voluntary Schools by Inspector not one of
Her Majesty's Inspectors.*

76. Where the managers of any public elementary school not provided by a school board desire to have their school inspected or the scholars therein examined, as well in respect of religious as of other subjects, by an inspector other than one of Her Majesty's inspectors, such managers may fix a day or days not exceeding two in any one year for such inspection or examination.

The managers shall, not less than fourteen days before any day so fixed, cause public notice of the day to be given in the school, and notice in writing of such day to be conspicuously affixed in the school.

On any such day any religious observance may be practised, and any instruction in religious subjects given at any time during the meeting of the school, but any scholar who has been withdrawn by his parent from any religious observance or instruction in religious subjects shall not be required to attend the school on any such day.¹

¹ When the managers of a school not provided by the local education authority make use of this section they liberate their school from the Conscience Clause (§7, *supra*) for the whole day. Consequently the Board of Education do not permit either meeting on that day to be recognised as an ordinary meeting of the school even although the special examination or inspection may occupy only one of the two daily meetings.

This section does not apply to schools provided by a school board, and when a school board desired to devote the whole of a school meeting to a religious examination they commonly gave notice to the parents that such meeting would be an extraordinary meeting, and that children withdrawn from religious instruction should not attend.

As to the inspection in religious subjects of a public elementary school not provided by the local education authority, *see* note 8 to §7 (1) (b) of the Education Act, 1902 (p. 53).

Parish divided by Boundaries of Boroughs.

77. *Where a parish is situated partly within and partly without a borough, the part situate outside of the borough shall be taken to be for all the purposes of this Act, except as otherwise expressly mentioned, a parish by itself, and the ratepayers thereof may meet in vestry in the same manner in all respects as if they were the inhabitants of a parish; every such meeting, and also the meeting for the purposes of this Act of the ratepayers of any parish (the ratepayers of which have not usually met in vestry) shall be deemed to be a vestry, and, save as provided by this Act, be subject to the Act of the fifty-eighth year of the reign of King George the Third, chapter sixty-nine, and the Acts amending the same, and, subject as aforesaid, shall be summoned by the persons and in the mode prescribed by the Education Department; and the overseers of the whole parish shall be deemed to be the overseers of any such part of a parish.*¹

¹ This section is repealed by the Education Act, 1902.

Education Department may apply to Charity Commissioners under 16 & 17 Vict. c. 137, etc.

78. The Education Department shall, for the purposes of the Charitable Trusts Acts, 1853 to 1869, be deemed to be persons interested in any elementary school to which those Acts are applicable, and the endowment thereof.¹

¹ By §54 of the Charitable Trusts Act, 1853, the Charity Commissioners (and now, in respect of educational endowments, the Board of Education) might, in certain circumstances, frame schemes for the appropriation of charitable property to varied trusts upon the application of, amongst others, any persons interested in the benefits of the charity. The effect of this section is to enable the Board of Education to initiate, as well as to frame, schemes in respect of educational endowments to which the Charitable Trusts Acts apply, and although the procedure is cumbrous and has not been used for many years owing to the necessity of the scheme being laid before Parliament, it might be useful where difficulties arise and no other solution is available.

Ascertaining Rateable Value.

79. *The rateable value of any parish or school district shall for the purposes of this Act be the rateable value as stated in the valuation lists, if any, and if there are none, then as stated in the rate book for the time being in force in such parish and in the parishes constituting the district; and the overseers and other persons having the custody of such valuation lists and rate book shall, when required by the school board, produce such lists and rate book to the school board, and allow the school board and any person appointed by them to inspect the same, and take copies of or extracts therefrom.*¹

¹ This section is repealed by the Education Act, 1902.

Mode of Publication of Notices.

80. *Notices and other matters required by this Act to be published shall, unless otherwise expressly provided, be published:—*

- (1) *By advertisement in some one or more of the newspapers circulating in the district or place to which such notice relates :*
- (2) *By causing a copy of such notices or other matter to be published to be affixed, during not less than twelve hours in the day, on Sunday, on or near the principal doors of every church and chapel in such district or place to which notices are usually affixed, and at every other place in such district or place at which notices are usually affixed.*¹

¹ This section is repealed by the Elementary Education Act, 1873. See §20 of that Act, p. 272.

Notices may be served by Post.

81. Certificates, notices, requisitions, orders, precepts, and all documents required by this Act to be served or sent may, unless otherwise expressly provided, be served and sent by post, and, till the contrary is proved, shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post ; and in proving such service or sending it shall be sufficient to prove that the letter containing the certificate, notice, requisition, order, precept, or document was prepaid, and properly addressed, and put into the post.

Notices to and by School Board.

82. Certificates, notices, requisitions, orders, and other documents may be served on a school board by serving the same on their clerk, or by sending the same to or delivering the same at the office of such board.

Certificates, notices, requisitions, orders, precepts, and other documents may be in writing or in print, or partly in writing and partly in print, and if requiring authentication by a school board may be signed by their clerk.

Evidence of Orders, etc. of Education Department.

83. All orders, minutes, certificates, notices, requisitions, and documents of the Education Department, if purporting to be signed by some secretary or assistant secretary of the Education Department, shall, until the contrary is proved, be deemed to have been so signed and to have been made by the Education Department, and may be proved by the production of a copy thereof purporting to have been so signed.

The Documentary Evidence Act, 1868, shall apply to the Education Department in like manner as if the Education Department were mentioned in the first column of the schedule to that Act, and any member of the Education Department, or any secretary or assistant secretary of the Education Department, were mentioned in the second column of that schedule.¹

¹ See §7 (3) of the Board of Education Act, 1899 (p. 394).

Effect of Requisitions of Education Department.

84. After the expiration of three months from the date of any order or requisition of the Education Department under this Act such order or requisition shall be presumed to have been duly made, and to be within the powers of this Act, and no objection to the legality thereof shall be entertained in any legal proceeding whatever.

Appearance of School Board.

85. A school board may appear in all legal proceedings by their clerk, or by some member of the board authorised by a resolution of the board; and every such resolution shall appear upon the minutes of the proceedings of the board, but every such resolution shall, until the contrary is proved, be deemed in any legal proceeding to appear upon such minutes.

Tenure of Teacher and his removal from House under
 §§ 17 & 18 of 4 & 5 Vict. c. 38.

86. The provisions of the School Sites Acts with respect to the tenure of the office of the schoolmaster or schoolmistress, and to the recovery of possession of any premises held over by a master or mistress who has been dismissed or ceased to hold office, shall extend to the case of any school provided by a school board, and of any master or mistress of such school, in the same manner as if the school board were the trustees or managers of the school as mentioned in those Acts.¹

¹ See the notes to §§17 and 18 of the School Sites Act, 1841 (p. 546).

Ratepayer may inspect Books, etc. of School Board.

87. Every ratepayer in a school district may at all reasonable times, with payment, inspect and take copies of and extracts from all books and documents belonging to or under the control of the school board of such district.

Any person who hinders a ratepayer from so inspecting or taking copies of or extracts from any book or document, or demands a fee for allowing him to do so, shall be liable, on summary conviction, to a penalty not exceeding five pounds for each offence.¹

¹ This section is repealed by the Education Act, 1902. As to inspection of documents of borough or county council, see note to Schedule I A of that Act.

Penalty for making incorrect return.

88. If any returning officer, clerk, or other person engaged in an election of a school board under this Act wilfully makes or causes to be made an incorrect return of the votes given at such election, every such offender shall, upon summary conviction, be liable to a penalty not exceeding fifty pounds.¹

¹ The Education Act, 1902, repeals so much of this and the three following sections as had not been repealed by previous enactments.

Penalty on Personation of Voter.

89. *If any person wilfully personates any person entitled to vote in the election of a school board under this Act, or answers falsely any question put to him in voting in pursuance of an order made under the second schedule to this Act, or falsely assumes to act in the name or on the behalf of any person so entitled to vote, he shall be liable on summary conviction, for every such offence, to a penalty not exceeding twenty pounds.*¹

¹ This section was repealed by the Elementary Education Act, 1873.

Penalty for forging or falsifying any Voting Paper or obstructing the Election.

90. *If any person knowingly personate and falsely assume to vote in the name of any person entitled to vote in any election under this Act, or forge or in any way falsify any name or writing in any paper purporting to contain the vote or votes of any person voting in any such election, or by any contrivance attempt to obstruct or prevent the purposes of any such election, or wilfully contravene any regulation made by the Education Department under the second schedule to this Act with respect to the election, the contravention of which is expressed to involve a penalty, the person so offending shall upon summary conviction be liable to a penalty of not more than fifty pounds, and in default of payment thereof to be imprisoned for a term not exceeding six months.*¹

¹ See the note to §88, *supra*.

The words from 'knowingly' (line 1) to 'or' (line 4) were repealed by the Elementary Education Act, 1873.

Corrupt Practices.

91. *Any person who at the election of any member of a school board or any appointed for the purpose of such election is guilty of corrupt practices shall, on conviction, for each offence be liable to a penalty not exceeding two pounds, and be disqualified for the term of six years after such election from exercising any franchise at any election under this Act, or at any municipal or parliamentary election.*

*The term corrupt practices in this section includes all bribery, treating, and undue influence which under any Act relating to a parliamentary election renders such election void.*¹

¹ This section was repealed by the Statute Law Revision (No. 2) Act, 1893.

Recovery of Penalties.

92. *Any penalty and any money which under this Act is recoverable summarily, and all proceedings under this Act which may be taken in a summary manner, may be recovered and taken before two justices in manner directed by an Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled 'An Act to facilitate the performance of the duties of justices of the peace out of*

'sessions within England and Wales with respect to summary convictions and orders,' and the Acts amending the same.¹

¹ The Acts here indicated are the Summary Jurisdiction Acts (*see* §§23 and 24 of the Elementary Education Act, 1873, p. 273).

When Justices had refused to convict on an information for breach of a byelaw made under §74, *supra*, and had stated a case for the opinion of the court, it was held that the Court of Appeal had no jurisdiction to hear an appeal from a decision of the High Court on the ground that the information related to a criminal matter (*Mellor v. Denham*, 5 Q. B. D. 467).

Provision as to Oxford.

93. *In the case of the borough of Oxford, the provisions of this Act relating to boroughs shall be construed as if the local board were therein mentioned instead of the council; if a school board is formed in the borough of Oxford, one third of the school board shall be elected by the University of Oxford, or the colleges and halls therein, in such manner as may be directed by the Education Department by an order made under the power contained in the second schedule to this Act.*¹

¹ This section is repealed by the Education Act, 1902.

Effect of Schedules.

94. The schedules to this Act shall be of the same force as if they were enacted in this Act, and the Acts mentioned in the fourth schedule¹ to this Act may be cited in the manner in that schedule mentioned.

¹ *See* the note to Schedule IV., p. 264.

Returns by School Board.

95. Every school board shall make such report and returns and give such information to the Education Department as the Department may from time to time require.¹

¹ This obligation will now lie upon the local education authority acting under Part III. of the Education Act, 1902.

(II.) PARLIAMENTARY GRANT.

Parliamentary Grant to Public Elementary School only.

96. *After the thirty-first day of March one thousand eight hundred and seventy-one*¹ no parliamentary grant shall be made to any elementary school which is not a public elementary school² within the meaning of this Act.

No parliamentary grant³ shall be made in aid of building, enlarging, improving, or fitting up any elementary school, *except in pursuance of a memorial duly signed, and containing the information required by the Education Department for enabling them to decide on the application and sent to the Education Department on or before the thirty-first day of December one thousand eight hundred and seventy.*¹

¹ The words in italics in this section were repealed by the Statute Law Revision (No. 2) Act, 1893.

² For the definitions of 'elementary school' and 'public elementary school' see §§3 and 7 respectively of this Act, *supra*.

It is provided by §7 (1) of the Education Act, 1902 (p. 48), that the local education authority shall maintain and keep efficient all public elementary schools within their area which are necessary, so long as, in the case of a school not provided by them, the conditions and provisions contained in that section are complied with.

It is also provided by §18 (2) of that Act that all receipts in respect of any school maintained by a local education authority, including any Parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, shall be paid to that authority.

Section 12 of the Elementary Education (Blind and Deaf Children) Act, 1893, provides that nothing in any Act of Parliament shall prevent the Education Department (now the Board of Education) from giving aid out of the Parliamentary grant to a school certified under that Act (*see* p. 682), and similar provisions are contained, as regards schools for defective and epileptic children in §7 of the Elementary Education (Defective and Epileptic Children) Act, 1899 (p. 695).

³ As to the Minutes, etc., containing the rules that have been in force at various periods for the distribution of building grants, *see* pp. 559 to 562.

With respect to the sale of school premises on account of which a building grant was made, *see* §14 of the School Sites Act, 1841 (p. 544), and §1 of the School Grants Act, 1855 (p. 557).

Between 1833 and the date at which, through the operation of this section, building grants ceased to be made, such grants were made by the Treasury or by the Education Department to 6765 schools. Applications for building grants to the number of 3330 were made in the year ending 31st December 1870, of which number 2282 had been approved, 256 refused, 217 withdrawn, and 575 were still under consideration, at the date of the compilation of the Annual Report of the Education Department for 1871-2.

Conditions of Annual Parliamentary Grant.

97. The conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant shall be those contained in the minutes of the Education Department in force for the time being,¹ and shall amongst other matters provide that *after the thirty-first day of March one thousand eight hundred and seventy-one*²—

(1) Such grant shall not be made in respect of any instruction in religious subjects :

(2) *Such grant shall not for any year exceed the income of the school for that year which was derived from voluntary contributions, and from school fees, and from any sources other than the parliamentary grant ;*³

but such conditions shall not require that the school shall be in connection with a religious denomination, or that religious instruction shall be given in the school, and shall not give any preference or advantage to any school on the ground that it is or is not provided by a school board.

Provided that where the school board satisfy the Education Department that in any year ending the twenty-ninth of September the sum required for the purpose of the annual expenses of the school board of any school district, and actually paid to the treasurer of such board by the rating authority, amounted to a sum which would have been raised by a rate of threepence in the pound on the rateable value of such district, and any such rate would have produced less than twenty pounds, or less than seven shillings and sixpence per child of the number of children in average attendance at the public elementary schools provided by such school board, such school board shall be entitled, in addition to the annual parliamentary grant in aid

of the public elementary schools provided by them, to such further sum out of moneys provided by Parliament, as, when added to the sum actually so paid by the rating authority, would, as the case may be, make up the sum of twenty pounds, or the sum of seven shillings and sixpence for each such child, but no attendance shall be reckoned for the purpose of calculating such average attendance unless it is an attendance as defined in the said minutes :⁴

Provided that no such minute of the Education Department *not in force at the time of the passing of this Act*² shall be deemed to be in force until it has lain for not less than one month on the table of both Houses of Parliament.

¹ For the 'Code of Minutes of the Board of Education presented to Parliament pursuant to this section' (the Day School Code), see p. 569.

² The words in italics in the first and last paragraphs of this section were repealed by the Statute Law Revision (No. 2) Act, 1893.

³ See §19 (1) of the Elementary Education Act, 1876, and the note thereon (p. 291).

⁴ The aid grant payable to local education authorities under §10 of the Education Act, 1902 (p. 74), takes the place of the additional grant payable to school boards under this section, as amended by the Elementary Education Act, 1897 (p. 711), as well as of the grant payable to voluntary schools under the Voluntary Schools Act, 1897 (p. 706).

Refusal of Grant to unnecessary Schools.

98. If the managers of any school which is situate in the district of a school board acting under this Act, and is not previously in receipt of an annual parliamentary grant, whether such managers are a school board or not, apply to the Education Department for a parliamentary grant, the Education Department may, if they think that such school is unnecessary, refuse such application.¹

The Education Department shall cause to be laid before both Houses of Parliament in every year a special report stating the cases in which they have refused a grant under this section during the preceding year, and their reasons for each such refusal.

¹ As to the refusal of grant to unnecessary schools under the Education Act, 1902, see §§8 and 9 of that Act, and the notes thereon (pp. 71 to 74).

Power of Schools to take Parliamentary Grants.

99. The managers of every elementary school shall have power to fulfil the conditions required in pursuance of this Act to be fulfilled in order to obtain a parliamentary grant, notwithstanding any provision contained in any instrument regulating the trusts or management of their school, and to apply such grant accordingly.¹

¹ By Schedule III. (7) of the Education Act, 1902, it is provided that this section shall apply to the fulfilment of any conditions, the performance of any duties, and the exercise of any powers under that Act as it applies to the fulfilment of conditions required in pursuance of this Act to be fulfilled in order to obtain a Parliamentary grant. As to the effect of this provision, see the notes to Schedule III. (7) of that Act, *ante*.

REPORT.

Annual Report of Education Department.

100. The Education Department shall in every year cause to be laid before both Houses of Parliament a report of their proceedings under this Act during the preceding year.

FIRST SCHEDULE.¹

<i>School District.</i>	<i>School Board.</i>	<i>Local Rate.</i>	<i>Rating Authority.</i>
<i>The Metropolis</i>	<i>The school board appointed under this Act.</i>	<i>In the City of London the consolidated rate.</i>	<i>The commissioners of sewers.</i>
		<i>In the parishes mentioned in schedule A. and the districts mentioned in schedule B. to the Metropolis Management Act, 1855, the general rate, and fund raised by the general rate.</i>	<i>In the parishes the vestry, and in the districts the district board.</i>
		<i>In places mentioned in schedule C. to the said Act, the rate levied for the purposes of the Metropolitan Poor Act, 1867, and any Act amending the same.</i>	<i>The masters of the bench, treasurer, governors, or other persons who have the chief control or authority in each place.</i>
<i>Boroughs, except Oxford.</i>	<i>The school board appointed under this Act.</i>	<i>The borough fund or borough rate.</i>	<i>The council.</i>
<i>District of the local board of Oxford.</i>	<i>The school board appointed under this Act.</i>	<i>Rate leviable by the local board.</i>	<i>The local board.</i>
<i>Parishes not included in any of the above-mentioned districts.</i>	<i>The school board appointed under this Act.</i>	<i>The poor rate</i>	<i>The overseers.</i>

¹ This Schedule is repealed, except as regards London, by the Education Act, 1902.

SECOND SCHEDULE.¹

FIRST PART.

Rules respecting Election and Retirement of Members of a School Board.

1. The election of a school board shall be held at such time, and in such manner, and in accordance with such regulations as the Education Department may from time to time by order prescribe, and the Education Department may by order appoint or direct the appointment of any officers requisite for the purpose of such election, and do all other necessary things preliminary or incidental to such election: Provided, that any poll shall be taken in the metropolis in like manner as a poll is taken under 'The Metropolis Management Act, 1855,' and shall be taken in any other district in like manner as a poll of burgesses or ratepayers (as the case may be) is usually taken in such district.

2. The expenses of the election and taking the poll in any district other than the metropolis shall be paid by the school board out of the school fund.

3. An order made by the Education Department under the power contained in this part of this schedule shall, as regards any election held before the first day of September one thousand eight hundred and seventy-one, be deemed to be within the powers of this schedule, and to have been duly made and have effect as if it were enacted in this schedule, but shall not be of any force as regards any election after the said date unless it has been confirmed by Parliament.

4. Any such order so far as relates to the metropolis shall supersede any provisions contained in the Acts relating to the election of common council-men, and in the Metropolis Management Act, 1855, and the Acts amending the same.

5. If from any cause no members are elected at the time at which they ought to be elected in accordance with this Act, then—

(a) In the case of the first election the Education Department may appoint another day for the election, or may proceed as in the case of a school board in default:

(b) In the case of a triennial election the retiring members, or so many as are willing to serve, shall be deemed to be re-elected, or, if all the retiring members refuse to serve, the Education Department may appoint another day for the election, or may proceed as in the case of a school board in default.

6. If an insufficient number of members are elected, or if, in the case of no members being elected, some of the retiring members are and some are not willing to serve, the school board, so far as it is constituted, shall elect a person to fill each vacancy.

7. No election under this Act shall be questioned on the ground of the title of the returning officer, or any person presiding at the poll, or any officer connected with the election.

8. Notice of the election of a person to be a member of the school board shall be sent to that person by the returning officer: in the case of the first election such notice shall be accompanied by a summons to attend the first meeting of the school board at the prescribed time.

9. The day for the triennial retirement of members shall be the prescribed day.

10. The first members shall retire from office on the day for retirement which comes next after the expiration of three years from the day fixed for the first election.

11. Members chosen to fill the offices of retiring members shall come into office on the day for retirement, and shall hold office for three years only.

12. Any person who ceases to be a member of the school board shall, unless disqualified as hereinafter mentioned, be re-eligible.

13. A member of the school board may resign on giving to the board one month's previous notice in writing of his intention so to do.

14. If a member of the school board absents himself during six successive months from all meetings of the board, except from temporary illness or other cause to be approved by the board, or is punished with imprisonment for any crime or is adjudged

bankrupt, or enters into a composition or arrangement with his creditors, such person shall cease to be a member of the school board, and his office shall thereupon be vacant.

15. If any casual vacancy in office occurs by death, resignation, disqualification, or otherwise, an election shall be held in manner directed by an order made under the power contained in this part of this schedule.

16. If by any means the number of members of a school board is reduced to less than the number required for a quorum, the Education Department may proceed as if such board were a board in default, or may direct an election to be held to fill up the vacancies in manner directed by an order made under the power contained in this part of this schedule.

17. The member chosen to fill up a casual vacancy shall retain his office so long only as the vacating member would have retained the same if no vacancy had occurred.

18. If the number of the board is reduced in pursuance of the provisions of this Act, the chairman of the board shall at some meeting, as soon as may be after such reduction, determine by ballot on the members who shall retire, so as to reduce the number of the board to the number to which it is so reduced.

19. The term 'prescribed' in this schedule means prescribed by some minute or order of the Education Department.

SECOND PART.

Rules respecting Resolutions for Application for School Board.

1. The meeting of a council for the purpose of passing such a resolution shall be summoned in the manner in which a meeting of the council is ordinarily summoned, and the resolution shall be passed by a majority of the members present and voting on the question.

2. The resolution passed by the persons who would elect the school board shall be passed in like manner as near as may be as that in which a member of the school board is elected, with such necessary modifications as may be contained in any order made under the powers of the first part of this schedule, and such powers shall extend to the passing of the resolution in like manner as if it were an election, but the expenses incurred with reference to such a resolution shall be paid by the overseers out of the poor rate.

3. If a resolution is rejected, the resolution shall not be again proposed until the lapse of twelve months from the date of such rejection.

THIRD PART.

Rules for Election of School Board in Metropolis.

1. If any person be returned for more than one division he shall, at or before the first meeting of the school board after such election, signify in writing to the board his decision as to the division which he may desire to represent on such return, and if he fails so to do the school board shall decide the division which he shall represent; and upon any such decision the office of member for the other division shall be deemed vacant. Such vacancy shall be filled up by an election to be held in manner directed by an order made under the power contained in the first part of this schedule.

2. The provisions in the first part of this schedule shall apply in the case of the school board in the metropolis.

3. The provisions in the first part of this schedule with respect to the proceedings in the case of no members being elected for a school district shall not only apply to the whole of the metropolis, but shall apply to the case of no members being elected for any particular division, with this qualification, that the Education Department shall not proceed as in the case of a school board in default, but may direct that persons may be elected by the school board to be members for such division.

4. In the places named in Schedule (C.) to 'The Metropolis Management Act, 1855,' the expenses of the election shall be paid out of the local rate, and such rate, or any increase of the rate, may be levied for the purpose.

5. The day for the retirement of members from office shall be the first day of December.

6. *Any casual election shall be held on the day fixed by the school board, and shall be an election for the division a member for which has created the vacancy.*²

7. If any vacancy is filled up by the school board the election shall be by the whole school board.

¹ Rules 1 and 8 of the first part of this Schedule were repealed by the Elementary Education Act, 1873, and rule 15 by the Elementary Education Act, 1876. The remainder of the first and the second part of the Schedule are repealed, except as regards London, by the Education Act, 1902.

² Rule 6 was partly repealed by the Elementary Education Act, 1873, and completely by the Elementary Education Act, 1876.

THIRD SCHEDULE.¹

Proceedings of School Board.

1. *The board shall meet for the despatch of business, and shall from time to time make such regulations with respect to the summoning, notice, place, management and adjournment of such meetings, and generally with respect to the transaction and management of business, including the quorum at meetings of the board, as they think fit, subject to the following conditions:—*

- (a) *The first meeting shall be held on the third Thursday after the election of the board, and if not held on that day shall be held on some day to be fixed by the Education Department :*
- (b) *Not less than one ordinary meeting shall be held in each month ; one meeting shall be held as soon as possible after every triennial election of members :*
- (c) *An extraordinary meeting may be held at any time on the written requisition of three members of the board addressed to the clerk of the board :*
- (d) *The quorum to be fixed by the board shall consist of not less than three members, and in the case of the metropolis not less than nine members :*
- (e) *Every question shall be decided by a majority of votes of the members present and voting on that question :*
- (f) *The names of the members present, as well as of those voting upon each question, shall be recorded :*
- (g) *No business involving the appointment or dismissal of a teacher, any new expense, or any payment (except the ordinary periodical payments), or any business which under this Act requires the consent of the Education Department, shall be transacted unless notice in writing of such business has been sent to every member of the board seven days at least before the meeting.*

2. *The board shall at their first meeting, and afterwards from time to time at their first meeting after each triennial election, appoint some person to be chairman, and one other person to be vice-chairman, for the three years for which the board hold office.*

3. *If any casual vacancy occurs in the office of chairman or vice-chairman the board shall, as soon as they conveniently can after the occurrence of such vacancy, choose one of their members to fill such vacancy, and every such chairman or vice-chairman so elected as last aforesaid shall continue in office so long only as the person in whose place he may be so elected would have been entitled to continue if such vacancy had not happened.*

4. *If at any meeting the chairman is not present at the time appointed for holding the same the vice-chairman shall be the chairman of the meeting, and if neither the*

chairman nor vice-chairman shall be present then the members present shall choose some one of their number to be chairman of such meeting.

5. In case of an equality of votes at any meeting the chairman for the time being of such meeting shall have a second or casting vote.

6. All orders of the board for payment of money, and all precepts issued by the board, shall be deemed to be duly executed if signed by two or more members of the board authorised to sign them by a resolution of the board, and countersigned by the clerk; but in any legal proceeding it shall be presumed, until the contrary is proved, that the members signing any such order or precept were authorised to sign them.

7. The appointment of any officer of the board may be made by a minute of the board, signed by the chairman of the board, and countersigned by the clerk (if any) of the board, and any appointment so made shall be as valid as if it were made under the seal of the board.

8. Precepts of the board may be in the form given at the end of this schedule.

Proceedings of Managers appointed by a School Board.

The managers may elect a chairman of their meetings. If no such chairman is elected, or if the chairman elected is not present at the time appointed for holding the same, the members present shall choose one of their number to be chairman of such meeting. The managers may meet and adjourn as they think proper. The quorum of the managers shall consist of such number of members as may be prescribed by the school board that appointed them, or, if no number be prescribed, of three members. Every question at a meeting shall be determined by a majority of votes of the members present and voting on that question, and in case of an equal division of votes the chairman shall have a second or casting vote.

The proceedings of the managers shall not be invalidated by any vacancy or vacancies in their number.

Form of Precept.

School district of _____ to wit.
To the council [or overseers, &c.] of the borough [or parish] of _____
These are to require you, the council [or overseers] of
the borough [or parish] of _____, from and out of the
moneys in the hands of your treasurer [or your hands], to pay on or before
the _____ day of _____, into the hands of A.B., treasurer of
the school board of the said district, the sum of _____
being the amount required for the expenses of the said school board up to the
of _____ 18 _____; and if there are no moneys
in the hands of your treasurer [or your hands] to raise the same by means of a
rate.

(Signed) C. D., } Members of the school board of the
E. F., } district of
G. H., clerk of the said school board.

¹ The conditions marked (b), (f), and (g) in rule 1 of this Schedule were repealed by the Elementary Education Act, 1873. The remainder of the Schedule is repealed, except as regards London, by the Education Act, 1902.

FOURTH SCHEDULE.

SCHOOL SITES ACTS.¹

The following Acts may be cited together as the 'School Sites Acts, 1841 to 1851.'

<i>Year and Chapter of Act.</i>	<i>Title of Act.</i>	<i>Short Title by which Acts may be cited.</i>
4 & 5 Vict. c. 38 .	<i>An Act to afford further facilities for the conveyance and endowment of sites for schools.</i>	<i>The School Sites Act, 1841.</i>
7 & 8 Vict. c. 37 .	<i>An Act to secure the terms on which grants are made by Her Majesty out of the Parliamentary grant for the education of the poor; and to explain the Act of the fifth year of Her present Majesty, for the conveyance of sites for schools.</i>	<i>The School Sites Act, 1844.</i>
12 & 13 Vict. c. 49	<i>An Act to extend and explain the provisions of the Acts for the granting of sites for schools.</i>	<i>The School Sites Act, 1849.</i>
14 & 15 Vict. c. 24	<i>An Act to amend the Acts for the granting of sites for schools.</i>	<i>The School Sites Act, 1851.</i>

¹ The Short Titles Act, 1896, repealing and re-enacting the provisions of the Short Titles Act, 1893, provides that the 15 & 16 Vict. c. 49 may be cited as the School Sites Act, 1852, and that that Act, with the four Acts mentioned in this Schedule, may be cited collectively as the School Sites Acts, 1841 to 1852. The Schedule was repealed by the Statute Law Revision (No. 2) Act, 1893.

FIFTH SCHEDULE.

DIVISIONS OF METROPOLIS.

<i>Name of Division.</i>	<i>Name of Division.</i>
Marylebone. Finsbury. Lambeth. ¹ Tower Hamlets. Hackney.	Westminster. Southwark. City. Chelsea. Greenwich.

¹ The School Boards Act, 1885, §2, provides that the Lambeth Division of the Metropolis for the purpose of the Elementary Education Acts, 1870 to 1878, shall be divided into two divisions, named East Lambeth and West Lambeth, and that the fifth Schedule to the Elementary Education Act, 1870, shall be construed as if for 'Lambeth' there were substituted 'East Lambeth' and 'West Lambeth.'

THE ELEMENTARY EDUCATION ACT, 1873.

36 & 37 Victoria, Chap. 86.

AN ACT to amend the Elementary Education Act, 1870, and for other purposes connected therewith. [5th August 1873.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :¹

¹ Repealed by the Statute Law Revision (No. 2) Act, 1893.

PRELIMINARY.

Short Title.

1. This Act may be cited as the Elementary Education Act, 1873; and this Act and the Elementary Education Act, 1870 (in this Act referred to as the principal Act), may be cited together as the Elementary Education Acts, 1870 and 1873.

Construction of Act.

2. This Act shall be construed as one with the principal Act, and the expression 'this Act' in the principal Act shall be construed to include this Act.

EXPENSES OF EDUCATION.

Repeal of 18 & 19 Vict. c. 34 (Denison's Act), and Substitution of other Provisions.

3. *The Act of the session of the eighteenth and nineteenth years of the reign of Her present Majesty, chapter thirty-four, intituled 'An Act to provide for the 'education of children in the receipt of outdoor relief,' is hereby repealed as from the first day of January one thousand eight hundred and seventy-four; and in lieu thereof be it enacted as follows:*

Where relief out of the workhouse is given by the guardians or their order by way of weekly or other continuing allowance to the parent of any child between five and thirteen years of age, or to any such child, it shall be a condition for the continuance of such relief that elementary education in reading, writing, and arithmetic shall (unless either there is some reasonable excuse within the meaning of section

seventy-four of the principal Act, or the child has reached such standard of education as may from time to time be fixed for the purpose of this Act, so far as regards any district in which byelaws under section seventy-four of the principal Act are in force by any such byelaw, and in any other district by a minute of the Education Department, or the child is employed in pursuance of a certificate under 'The Agricultural Children Act, 1873,' and is not attending school) be provided for such child, and the guardians shall give such further relief (if any) as may be necessary for that purpose.

Any such relief to a parent as above mentioned shall not be granted or refused on condition of the child attending any public elementary school other than such as may be selected by the parent.

The guardians shall not have power under this section to give any relief to a parent in order to enable such parent to pay more than the ordinary fee payable at the school which he selects, or more than one farthing for each attendance at such school, as defined by the minutes of the Education Department for the time being in force with respect to the Government grant.

All relief given by guardians under this section shall be paid out of their common fund, and where given by the guardians of any union in the metropolis as defined by the Metropolitan Poor Act, 1867, shall be deemed to be expenses repayable from the Metropolitan Common Poor Fund, within the meaning of section sixty-nine of that Act, and shall be repaid to such guardians accordingly.¹

¹ This section was repealed by the Elementary Education Act, 1876. For the substituted enactment, see §40 of that Act (p. 301), as amended by §5 of the Elementary Education Act, 1880 (p. 313).

Power of Local Government Board as to Relief and Guardians.

4. The Local Government Board shall have the like powers with respect to guardians acting under and relief given in pursuance of this Act, as they have with respect to guardians acting under and relief given in pursuance of the Acts relating to the relief of the poor, and relief given in pursuance of this Act shall be deemed to be relief within the meaning of those Acts.¹

¹ This section was repealed by the Statute Law Revision Act, 1883. See the provisions of §34 of the Elementary Education Act, 1876, which is now repealed by the Education Act, 1902.

ELECTIONS.¹

Confirmation of Orders as to Elections, etc.

5. The orders and regulations of the Education Department mentioned in the first schedule to this Act, and all orders of the Education Department incorporating the said orders or regulations, so far as they so incorporate them, are hereby confirmed, and shall be deemed to have been duly made, and to have been within the powers contained in the principal Act, and shall continue in force until revoked or altered by any order made under the provisions of the principal Act as amended by this Act.²

¹ Sections 5 to 9, which relate to school board elections, are repealed, except as regards London, by the Education Act, 1902.

² By a later Act, viz., the Elementary Education (Orders) Act, 1874, the validity

of certain further orders made by the Education Department, with respect to the united school districts mentioned in the Schedule to that Act, was declared, and provision was made with regard to future orders with respect to such districts. That Act is now wholly repealed by the Education Act, 1902.

Election of School Board.

6. *The principal Act shall be construed as if there were substituted for the rules numbered one and three in the first part of the second schedule to the principal Act the rules in the second schedule to this Act, and the references in the principal Act to the second schedule to that Act, or the first part of that schedule, shall be construed to refer to the said schedule or the first part thereof, with the provisions so substituted; but the said substitution shall not affect anything done before the passing of this Act.*¹

¹ The words from 'but the said' to the end of the section were repealed by the Statute Law Revision Act, 1883.

Overseers to allow Inspection of Rate Books and otherwise assist Returning Officers.

7. *If any overseer or other officer has in his possession or under his control any rate book or other document which under the Elementary Education Acts, 1870 and 1873, or any order made thereunder, constitutes the register of persons entitled to vote at an election of a school board, or at the passing of a resolution for an application for a school board, and such overseer or other officer refuses or fails to comply with the directions of any order of the Education Department confirmed by this Act, or made in pursuance of the Elementary Education Acts, 1870 and 1873, with respect to the production, inspection, or copying of such book or document, or the assisting any returning officer at any such election or passing of a resolution, such overseer or officer shall be liable, on summary conviction, to a penalty not exceeding five pounds for every day during which he so refuses or fails.*

Amendment of 33 & 34 Vict. c. 75, s. 91, as to Corrupt Practices at Elections.

8. *Every person who, under the principal Act, is disqualified by a conviction for corrupt practices at any election from exercising any franchise for any term of years shall be also disqualified during the same term of years from being a member of a school board and from holding any municipal office.*¹

¹ This section was repealed by the Statute Law Revision (No. 2) Act, 1893.

Questioning of Election and Resolution.

9. *The election of any member of a school board, and the passing of a resolution for an application for a school board, under the Elementary Education Acts, 1870 and 1873, shall not be questioned except within six months after the declaration of the election of such member or of the passing of such resolution, whether such declaration was made before or after the passing of this Act.*

MISCELLANEOUS AMENDMENTS OF 33 & 34 VICT. c. 75.

Amendment of 33 & 34 Vict. c. 75, s. 57, as to Loans.

10. *The principal Act and Acts referring thereto shall be construed as if, for section fifty-seven, which is repealed by this Act,¹ there were substituted the following section :*

Where a school board have incurred or require to incur any expense, either—

- (a) in providing or enlarging a schoolhouse ; or*
- (b) in paying off any debt charged on a schoolhouse provided by them, or on any land acquired by them by gift, transfer, purchase, or otherwise for the purposes of this Act ; or*
- (c) in any works of improving or fitting up a schoolhouse which, in the opinion of the Education Department, ought by reason of the permanent character of such works to be spread over a term of years,*

they may, with the consent of the Education Department, spread the payment over such number of years, not exceeding fifty, as may be sanctioned by the Education Department, and may, with the like consent, for that purpose borrow money on security of the school fund and local rate, and may charge that fund and the local rate with the payment of the principal and interest due in respect of the loan. They may, if they so agree with the mortgagee, pay the amount borrowed with the interest by equal annual instalments not exceeding fifty, and if they do not so agree they shall annually set aside one-fiftieth of the sum borrowed as a sinking fund : Provided that no such consent of the Education Department shall be granted unless proof be given to their satisfaction that the additional school accommodation which it is proposed to supply is required in order to provide for the educational wants of the district :

For the purpose of such borrowing the clauses of 'The Commissioners Clauses Act, 1847,' with respect to the mortgages to be executed by the commissioners shall be incorporated with this Act ; and in the construction of those clauses for the purpose of this Act, this Act shall be deemed to be the special Act, and the school board which is borrowing shall be deemed to be the commissioners :

The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required under this section on the security of the school fund and local rate without requiring any further or other security, such loan to be repaid within such number of years, not exceeding fifty, as may be recommended by the Education Department, and to bear interest at the rate of three and a half per cent. per annum.¹

The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.¹

¹ The words 'which is repealed by this Act' in the first paragraph were repealed by the Statute Law Revision (No. 2) Act, 1893, the words 'at the rate of three and a half per cent. per annum' in the last paragraph but one by the Public Works Loans Act, 1897, and the last paragraph by the Statute Law Revision Act, 1883.

The repeal of the section is completed, except as regards London, by the Education Act, 1902. For the provisions of that Act with respect to borrowing by a local education authority, see §19, *ante*.

Amendment of 33 & 34 Vict. c. 75, ss. 12, 40.

11. *The provisions of section twelve of the principal Act shall extend to authorise the Education Department, if they think fit, to form a united school district, and upon such union to cause a school board to be formed for such united school district, in like manner and under the like circumstances as it authorises them to cause a school board to be formed for any school district, without making the inquiry or publishing the notices required by the principal Act, but after such inquiry, public or other, and such notice as the Education Department think sufficient: Provided that a resolution in favour of union shall be passed in each district separately, and if a school board has been elected in any such district, by the school board.*¹

¹ This section is repealed by the Education Act, 1902.

Union of Detached Parts of Parishes for purposes of Act.

12. *Where any part of a parish is detached from the principal part of a parish, the Education Department may, with the consent of the Local Government Board, by order direct that each such part of the said parish shall, and the same shall accordingly, as from the date of the order or any later date specified in the order, be, for the purposes of the principal Act and this Act, a parish by itself, and section fifty-seven of the principal Act shall apply thereto in like manner as if such part of a parish were the part of a parish situate outside a borough.*

*The provisions of section fifty-six of the principal Act, with respect to raising a sum from any place which is part of a parish, shall, where necessary, apply to a part of a parish, although under this section it is deemed to be a parish by itself.*¹

¹ This section is repealed by the Education Act, 1902.

Power of School Board to accept Gifts for Educational Purposes.

13. A school board shall be able and be deemed always to have been able to be constituted trustees for any educational endowment or charity for purposes connected with education, whether such endowment or charity was established before or after the passing of the principal Act, and to have and always to have had power to accept any real or personal property given to them as an educational endowment or upon trust for any purposes connected with education: ¹ Provided that—

- (1) Nothing in this section shall enable a school board to be trustees for or accept any educational endowment, charity, or trust, the purposes of which are inconsistent with the principles on which the school board are required by section fourteen of the principal Act to conduct schools provided by them; and,
- (2) Every school connected with such endowment, charity, or trust shall be deemed to be a school provided by the school board,

except that nothing in this section shall authorise the school board to expend any money out of the local rate for any purpose other than elementary education ; and,

- (3) Nothing in this section shall affect the law of mortmain *or the Act of the ninth year of the reign of King George the Second, chapter thirty-six.*²

¹ The Education Act, 1902, §5, provides that the local education authority shall throughout their area have the powers and duties of a school board (*see* p. 39), and it will therefore have the power given to a school board by this section, and in the exercise of that power it will be limited by the provisions contained in the section. These limitations, however, only apply in cases where the power given by the section is invoked. Each of the local education authorities was and is a corporation having an existence independent of any powers or duties assigned to it by the Education Act, 1902, and as a corporation might have had and may in future have grants of lands or buildings made to it (*e.g.* under School Sites Act, 1841, §7, p. 541), or, in the case of a borough council, to trustees on its behalf (*see* Municipal Corporations Act, 1882, §133, p. 481), and may administer any trusts attached to such lands or buildings in so far as such administration is *intra vires*.

² The words in italics were repealed by the Statute Law Revision Act, 1898. The Act referred to (9 Geo. 2 c. 36) was repealed by the Mortmain and Charitable Uses Act, 1888 (*see* note to §1 of that Act, p. 526).

Amendment of 29 & 30 Vict. c. 118, s. 12, as applied to School Boards.

14. Where a school board exercises the powers of a prison authority under the Industrial Schools Act, 1866, not less than fourteen days', instead of not less than two months', previous notice shall be given of the intention of the school board to take into consideration the making of the contribution mentioned in section twelve of that Act.¹

¹ The Youthful Offenders Act, 1901, §9 (p. 746), provides that where a local authority acting in pursuance of the Acts relating to reformatory or industrial schools, or the Elementary Education Acts, 1870 to 1900, agree to contribute a weekly payment towards the maintenance of any child in any reformatory or industrial school, the requirements of the first proviso to §12 of the Industrial Schools Act, 1866 (p. 744), and §28 of the Reformatory Schools Act, 1866, and of §14 of the Elementary Education Act, 1873 (relating to previous notice of intention to contribute) shall not apply to such contribution.

Amendment of 33 & 34 Vict. c. 75, s. 20.

15. For the purpose of the purchase of land otherwise than by agreement under section twenty of the principal Act, the Act confirming an order of the Education Department for such purchase, together with the principal Act, shall be deemed to be the special Act.

Valuation in Metropolis.

16. The principal Act shall be construed as if there were substituted for subsection ten of section thirty-seven thereof the following words :

The school board shall apportion the amount required to be raised to meet the deficiency in the school fund among the different parts of the

metropolis mentioned in the third column of the first schedule to this Act, in proportion to the rateable value of such parts, as shown by the valuation lists for the time being in force under the Valuation (Metropolis) Act, 1869, or any other Act for making valuation lists, or, where there is no such valuation list, in the same proportion and according to the same basis in and according to which the then last rate made by the Metropolitan Board of Works was assessed.

*The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.*¹

¹ The words in italics were repealed by the Statute Law Revision Act, 1883.

Making up and Examination of Accounts.

17. *The accounts of a school board shall be made up and balanced to the twenty-fifth day of March and twenty-ninth day of September in every year, or, if so directed by regulation under this Act, annually to one of those days in every year.*

The accounts shall be examined by the school board and signed by the chairman within such time, not exceeding two months after the day to which they are made up, as may be fixed by a regulation under this Act.

*As soon as practicable after the accounts are so signed they shall be audited.*¹

¹ This section is repealed by the Education Act, 1902.

Amendment of 33 & 34 Vict. c. 75, s. 60.

18. *The principal Act shall be construed as if for subsection nine of section sixty thereof there were substituted the following words :*

Subject to the provisions of this section, the Local Government Board may from time to time make such regulations as may be necessary respecting the form of keeping the accounts, the audit thereof, the mode of publishing the time and place of holding the audit, the time within which the accounts are to be examined by the school board and signed by the chairman, and (with the consent of the Education Department) the school boards or class of school boards the accounts of which are to be made up only annually, and the day to which they are to be so made up in every year.

*The said substitution shall not affect anything done before the passing of this Act, except that anything done before the passing of this Act which would have been legal if the said substitution had been made shall be legal.*¹

¹ The last paragraph of the section was repealed by the Statute Law Revision Act, 1883. The repeal of the section is completed by the Education Act, 1902.

Extension of 33 & 34 Vict. c. 75, s. 70, as to returns.

19. *Where the Education Department have power under the principal Act to require any local authority to send to them a return, the Education*

Department, without requiring such local authority to make the return, shall have the same power of appointing a person or persons to make such return as they would have under section seventy of the principal Act if the local authority had been required to make and had failed to make such return.

Notices for purposes of Elementary Education Acts.

20. Notices and other matters required by the Elementary Education Acts, 1870 and 1873, to be published shall, unless otherwise expressly provided, be published either by advertisement, and by affixing the same on the doors of churches and chapels, and other public places, or in such other manner as the Education Department may either generally or with respect to any particular district, place, or notice, or class of districts, places, or notices, by order determine, as being in their opinion sufficient for giving information to all persons interested; and all overseers, assistant overseers, and officers of guardians shall comply with the directions of the Education Department with respect to such notices, and any expenses incurred by them in carrying into effect this section may be paid as their expenses under the Acts relating to the relief of the poor.

Every person who wilfully tears down, injures, or defaces any notice affixed in pursuance of the Elementary Education Acts, 1870 and 1873, or any order of the Education Department made thereunder, shall be liable on summary conviction to a penalty not exceeding forty shillings.

Amendment of 33 & 34 Vict. c. 75, 3rd Schedule.

21. *The regulations in the third schedule to this Act shall be substituted for the regulations in the third schedule to the principal Act which are repealed by this Act, but such substitution shall not affect anything done before the passing of this Act.*¹

¹ The words from 'but such substitution' to the end of the section were repealed by the Statute Law Revision Act, 1883. The rest of the section, and the schedule referred to, which contains regulations as to the proceedings of school boards, are repealed by the Education Act, 1902.

Returns by Schools to School Boards.

22. In any school district in which a byelaw under section seventy-four of the principal Act is in force, the school board of such district may from time to time supply forms to any public elementary school for the purpose of obtaining reasonable information with respect to the attendance of children residing in their district who attend such school; and the managers of such school, if they fail to cause such forms to be truly filled up and returned in manner required by the school board, or to cause such information to be given as will enable the school board to ascertain whether a child resident within their district and attending that school attends the same in manner required by the said byelaw, shall cause to be produced to such

member or officer of the school board or other person as may be duly authorised in that behalf by the school board, at any reasonable time when required by him, the registers and other books and documents containing information with respect to the attendance of children at such school, and shall permit him to inspect and take copies of and extracts from the same.

If any difference arises between a school board and the managers of a public elementary school as to whether the information required by the said forms is or is not reasonable, such difference shall be referred to the Education Department, whose decision shall be final.¹

¹ The local education authority acting under Part III. of the Education Act, 1902, will in future have the powers given to school boards by this section.

LEGAL PROCEEDINGS.

Legal Proceedings.

23. All offences and penalties under the principal Act or this Act, or any byelaw under the principal Act, which may be prosecuted or recovered on summary conviction¹ may be prosecuted and recovered in manner provided by the Summary Jurisdiction Acts.

The court of summary jurisdiction, when hearing and determining an information or complaint, shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty sessions, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

¹ The offences and penalties under the principal Act, or this Act, or any byelaw under the principal Act, which may be prosecuted or recovered on summary conviction, are offences against byelaws made under §74 of the principal Act, or against §§20, 24 (4) and 25 of this Act, *infra*, and penalties under §74 of the principal Act, as amended by §6 (2) of the Elementary Education Act, 1900.

See also §37 of the Elementary Education Act, 1876 (p. 300).

Where no evidence is given to show that a father, upon whom a fine has been inflicted for the non-attendance of his child, has goods upon which to distrain, the justices may be justified in refusing an application for a distress warrant (*R. v. German*, 66 L. T. 264).

Regulations as to Legal Proceedings.

24. With respect to proceedings before a court of summary jurisdiction for offences and penalties under the principal Act, or this Act, or any byelaw under the principal Act, the following provisions shall have effect :

- (1.) *The description of the offence in the words of the Act or byelaw, or as near thereto as may be, shall be sufficient in law :¹*
- (2.) *Any exception, exemption, proviso, excuse, or qualification, whether it does or not accompany the description of the offence in the Act or byelaw, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived no proof in relation*

to the matters so specified or negatived shall be required on the part of the informant :¹

- (3.) In any proceeding for an offence under a byelaw, the court may, instead of inflicting a penalty, make an order directing that the child shall attend school, and that if he fail so to do, the person on whom such order is made shall pay a penalty not exceeding the penalty to which he is liable for failing to comply with the byelaw :
- (4.) Any justice may require by summons any parent or employer² of a child, required by a byelaw to attend school, to produce the child before a court of summary jurisdiction, and any person failing, without reasonable excuse to the satisfaction of the court, to comply with such summons shall be liable to a penalty not exceeding twenty shillings :
- (5.) A certificate purporting to be under the hand of the principal teacher of a public elementary school, stating that a child is or is not attending such school, or stating the particulars of the attendance of a child at such school, or stating that a child has been certified by one of Her Majesty's inspectors to have reached a particular standard of education, shall be evidence of the facts stated in such certificate :³
- (6.) Where a child is apparently of the age alleged for the purposes of the proceeding, it shall lie on the defendant to prove that the child is not of such age :
- (7.) If a child is attending an elementary school which is not a public elementary school, it shall lie on the defendant to show that the school is efficient, and the court, in considering whether any elementary school is efficient, shall have regard to the age of the child and to the standard of education corresponding to such age prescribed by the minutes of the Education Department for the time being in force with respect to the parliamentary grant :⁴
- (8.) Where a school board are, by reason of the default of the managers or proprietor of an elementary school, unable to ascertain whether a child who is resident within the district of such school board and attends such school attends school in conformity with a byelaw made by such school board, it shall lie on the defendant to show that the child has attended school in conformity with the byelaw :⁴
- (9.) Any person may appear by any member of his family or any other person authorised by him in this behalf.

¹ Subsections (1) and (2) are repealed by the Statute Law Revision Act, 1883, provisions to the same effect having been enacted by the Summary Jurisdiction Act, 1879.

² As to other provisions respecting the 'employer' of a child, *see* note 6 to §74 of the Elementary Education Act, 1870 (p. 248).

³ *See* §25, *infra*.

⁴ *See* note 28 to §74 of the Elementary Education Act, 1870 (p. 250).

Forgery of Certificate, and giving False Information.

25. Every person who forges or counterfeits any certificate which is by this Act made evidence of any matter, or gives or signs any such certificate which is to his knowledge false in any material particular, or knowing any such certificate to be forged, counterfeit, or false, makes use thereof, shall be liable on summary conviction to imprisonment for a period not exceeding three months, with or without hard labour.¹

¹ See also §37 of the Elementary Education Act, 1876 (p. 300).

DEFINITIONS AND REPEAL.

Schedules part of Act.

26. *The schedules to this Act shall be of the same force as if they were enacted in the body of this Act.*¹

¹ This section and the schedules to this Act, so far as they have not been repealed previously, are repealed, except as regards London, by the Education Act, 1902.

Interpretation.

27. In this Act—

‘Guardians.’

The term ‘guardians’ includes any body of persons performing the functions of guardians within the meaning of the Acts relating to the relief of the poor :

‘Union.’

The term ‘union’ means any union or incorporation of parishes under any general or local Act, and any single parish having guardians as defined by this Act under any general or local Act :

‘Common Fund.’

The term ‘common fund’ means, in the case of a union which comprises only one parish, the fund applicable to the relief of the poor of such parish :

‘Summary Jurisdiction Acts.’

The term ‘the Summary Jurisdiction Acts’ means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled ‘An Act to facilitate the performance of the duties of ‘Justices of the Peace out of sessions within England and Wales with ‘respect to summary convictions and orders,’ inclusive of any Acts amending the same :¹

‘Court of Summary Jurisdiction.’

The term ‘court of summary jurisdiction’ means any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts.¹

¹ The parts of this section in italics were repealed by the Statute Law Revision

(No. 2) Act, 1893. For definitions of the terms defined by the repealed provisions, see §§7, 10 and 11 of the Interpretation Act, 1889.

Repeal and Savings.

28. *The principal Act is hereby repealed to the extent specified in the third column of the fourth schedule to this Act.*

Provided that—

- (1.) *Any order or regulation of the Education Department made under any enactment hereby repealed shall continue in force as if it had been made under this Act :*
- (2.) *Any school board elected under any enactment hereby repealed shall continue and be deemed to have been elected under this Act :*
- (3.) *The repeal of any Act or enactment by this Act shall not—*
 - (a.) *Affect anything duly done or suffered under any such Act or enactment ; or*
 - (b.) *Affect any right, privilege, obligation, or liability acquired, accrued, or incurred under any such Act or enactment, or byelaw ; or*
 - (c.) *Affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any such Act, enactment, or byelaw ; or*
 - (d.) *Affect any investigation, legal proceeding, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid : and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed.*¹

¹ This section is repealed by the Statute Law Revision Act, 1883.

SCHEDULES.

FIRST SCHEDULE.¹

ORDERS AND REGULATIONS OF THE EDUCATION DEPARTMENT RELATING TO ELECTIONS OF AND APPLICATIONS FOR SCHOOL BOARDS.

7th October 1870.	<i>Order fixing the boundaries of the divisions of the metropolis, with the number of members to be elected by each division, and appointing the returning officer for the first election of the school board for London and his deputies.</i>
27th October 1870.	<i>Order regulating the first election of the school board for London.</i>
27th October 1870.	<i>General regulations for the first election of school boards in boroughs.</i>
21st December 1870.	<i>General regulations for the first election of school boards in parishes not situate within municipal boroughs, or within the metropolis.</i>
21st December 1870.	<i>General regulations as to passing resolutions for application for school boards in parishes not situate within municipal boroughs or within the metropolis.</i>
6th January 1871.	<i>Regulations for the first election of a school board for the district of the local board of Oxford.</i>
15th March 1873.	<i>General regulations as to the formation of united school districts.</i>

¹ This schedule is repealed, except as regards London, by the Education Act, 1902.

SECOND SCHEDULE.¹

RULES RESPECTING ELECTION OF MEMBERS OF A SCHOOL BOARD.

(1.) *The election of a school board shall be held at such time and in such manner and in accordance with such regulations as the Education Department may from time to time by order prescribe; and the Education Department may by order appoint or direct the appointment and make regulations as to the duties, remuneration, and expenses of any officers requisite for the purpose of such election, and do and make regulations respecting all other necessary things preliminary or incidental to such election, and revoke or alter any previous order, whether confirmed by or made in pursuance of this Act.*

Provided as follows:—

- (a) *The candidates at every election shall be nominated in writing:*
- (b) *Any poll shall, so far as circumstances admit, be conducted in like manner in which the poll at a contested municipal election is directed by the Ballot Act, 1872, to be conducted; and, subject to any exceptions or modifications contained in any order of the Education Department made in pursuance of this Act, the Ballot Act, 1872, shall apply in the case of the election of a school board in like manner as if the provisions thereof were herein enacted with the substitution of 'school board election' for 'municipal election':*
- (c) *In a parish which is not situate in the city of London, or in a borough, other than the borough of Oxford, the book containing the last rate made for such parish more than one month previously to any date shall be the register of the ratepayers entitled to vote in such parish at that date; and every ratepayer whose name appears in such rate book shall be entitled to vote unless he is disqualified for voting, and no person shall be entitled to vote whose name does not so appear.*
- (2.) *Elections to fill casual vacancies in the Metropolis and elsewhere shall be held only on the day in the year appointed or prescribed for the election of members, unless the Education Department order an election to be held on some other day, in pursuance of the rule numbered sixteen in the first part of the second schedule to the principal Act.*
- (3.) *An order made in pursuance of this schedule shall, save as otherwise provided by such order, apply to all school boards.*

¹ This schedule is repealed, except as regards London, by the Education Act, 1902.

THIRD SCHEDULE.¹

PROCEEDINGS OF SCHOOL BOARD.

The following regulations shall be construed as part of the conditions mentioned in rule one in the third schedule to the principal Act; that is to say,

- (b.) *Not less than one ordinary meeting shall be held in each month, but where the board ordinarily meet more than once in every month, they may, by resolution passed by a majority of not less than two-thirds of the members present and voting on the question, resolve not to have an ordinary meeting in the months of August and September, or one of such months. One meeting shall be held as soon as possible after every triennial election of members:*
- (f.) *The names of the members present, and in the case of a division the names of those voting upon each question, shall be recorded:*
- (g.) *No business involving the appointment or dismissal of a teacher, any new expense, or any payment (except the ordinary periodical payments), or any business which under this Act requires the consent of the Education Department, shall be transacted unless notice in writing of such business has been sent to every member four days at least before the meeting.*

¹ This schedule is repealed, except as regards London, by the Education Act, 1902.

FOURTH SCHEDULE.¹

ACT REPEALED.

A description or citation of a portion of an Act is inclusive of the words, section, or other part first or last mentioned, or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
33 & 34 Vict. c. 75.	<i>The Elementary Education Act, 1870.</i>	<i>The sub-section numbered ten in section thirty-seven; section fifty-seven; section fifty-nine; the sub-section numbered nine in section sixty; sections eighty and eighty-nine; section ninety, from 'knowingly personate' to 'voting in any such election or'; the rules numbered one and three in the first part of the second schedule; so much of the rule numbered six in the third part of the second schedule as relates to fixing a day for a casual election, and the conditions in rule one of the third schedule marked (b) (f) and (g).</i>

¹ This schedule was repealed by the Statute Law Revision Act, 1883.

THE ELEMENTARY EDUCATION ACT, 1876.

39 & 40 Victoria, Chap. 79.

AN ACT to make further provision for Elementary Education.
[15th August 1876.]

WHEREAS it is expedient to make further provision for the education of children, and for securing the fulfilment of parental responsibility in relation thereto, and otherwise to amend and to extend the Elementary Education Acts :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows :¹

¹ Repealed by the Statute Law Revision Act, 1894.

PRELIMINARY.

Short Title.

1. This Act may be cited as the 'Elementary Education Act, 1876.'

Extent of Act.

2. This Act shall not, save as otherwise expressly provided, apply to Scotland or Ireland.

Commencement of Act.

3. *This Act shall, save as otherwise expressly provided, come into operation on the first day of January one thousand eight hundred and seventy-seven (which day is in this Act referred to as the commencement of the Act).¹*

¹ This section was repealed by the Statute Law Revision Act, 1894.

PART I.

LAW AS TO EMPLOYMENT AND EDUCATION OF CHILDREN.¹

Declaration of Duty of Parent to educate Child.

4. It shall be the duty¹ of the parent² of every child³ to cause such child to receive efficient elementary instruction in reading, writing, and

arithmetic, and if such parent fail to perform such duty, he shall be liable to such orders and penalties ⁴ as are provided by this Act.⁵

¹ The Elementary Education Act, 1870, enabled the attendance of children at school to be enforced in school districts for which there was a school board, and for which the school board were willing to make byelaws under §74 of that Act.

The present Act extended the law as to school attendance—

- (1.) By a general declaration of the duty of the parent to cause his child to receive efficient elementary instruction ;
- (2.) By a general prohibition of the employment of children who had not satisfied certain conditions of age, proficiency, and school attendance ;
- (3.) By establishing a local authority for every school district, whether under a school board or not, for the purpose of enforcing the provisions of the Act, and of making byelaws, subject to certain conditions, under §74 of the Elementary Education Act, 1870, in school districts for which there was no school board.

For a summary of the law of school attendance under the Elementary Education Acts, the model form of byelaws, and the revised regulations of the Board of Education as to certificates of age, proficiency, and school attendance, *see* the Appendix to the Elementary Education Act, 1900 (p. 331).

² For the meaning of the expression 'parent,' *see* §3 of the Elementary Education Act, 1870, and the note thereon (p. 196).

³ Section 48, *infra*, provides that a child in this Act means a child between the ages of five and fourteen years.

As to the period of compulsory education in the case of blind or deaf, and defective or epileptic children, *see* §1 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, and §4 (1) of the Elementary Education (Defective and Epileptic Children) Act, 1899, respectively, and the notes thereon (pp. 675 and 693).

⁴ For orders and penalties, *see* §§11, 12, and 37, *infra*.

⁵ In the case of *London School Board v. Wright*, 12 Q. B. D. 578, the Court of Queen's Bench considered the nature of the responsibility imposed upon the parent by this section and the other sections in the Education Acts, 1870 to 1880, dealing with compulsory attendance, and held that it being compulsory upon the parent to cause his child to attend a school, his act in sending the child to the school is not such a voluntary act that a promise to pay the school fees could be implied from it, and that therefore no action to recover arrears of fees could be maintained by a school board against the parent of a child attending a public elementary school. The Court held (following the decision in *Saunders v. Richardson*, 7 Q. B. D. 388) that it was the duty of the parent when sending his daughter to a particular school to provide her with the means of paying the prescribed school fees, if able to do so, and that having neglected or failed to perform that duty he did not 'cause her to attend' within the intent and meaning of the Education Acts. In the case of *London School Board v. Wood*, 15 Q. B. D. 415, 54 L. J. M. C. 145 : 54 L. T. 88, the Court followed this decision and held that where the parent did not provide the prescribed fee he did not 'cause the child to attend' within the meaning of the byelaw in that case, although the child was admitted and received instruction.

Where a parent persisted in sending his child to the doors of a voluntary school after he had notice that the managers refused to receive it, and that there were other public elementary schools within two miles willing to receive the child, it was held that such an offering to attend did not constitute an attendance, and that there was no reasonable excuse for non-attendance and that the parent was rightly convicted (*Jones v. Rowland*, 80 L. T. 630).

Regulation as to Employment of Child under 10, and Certificate of Education or previous School Attendance being condition of Employment of Child over 10.

5. A person shall not, *after the commencement of this Act*,¹ take into his employment (except as herein-after in this Act mentioned)² any child—

- (1.) Who is under the age of ten³ years; or
- (2.) Who, being of the age of ten³ years or upwards, has not obtained such certificate⁴ either of his proficiency in reading, writing, and elementary arithmetic, or of previous due attendance at a certified efficient school,⁵ as is in this Act in that behalf mentioned, unless such child, being of the age of ten³ years or upwards, is employed, and is attending school in accordance with the provisions of the Factory Acts, or of any byelaw of the local authority (herein-after mentioned) made under section seventy-four of The Elementary Education Act, 1870, as amended by The Elementary Education Act, 1873, and this Act, and sanctioned by the Education Department.

¹ The words in italics were repealed by the Statute Law Revision Act, 1894.

² These words refer to so much of §9 of this Act as is still operative (*see* the note to that section) and to the temporary provisions of §51 and Schedule I., *infra*.

³ There is no later enactment expressly substituting any higher age for ten in this section. This lower limit of age has, however, been indirectly raised, and the importance of this section, as of the preceding one, has been considerably modified as the result of the provisions of later Acts respecting byelaws made under §74 of the Elementary Education Act, 1870. It is to be remembered that (1) byelaws made under that section, as amended by later enactments (*see* the Model Form of Byelaws, p. 331), are now in force in every district; (2) wherever byelaws provided for total or partial exemption of children over ten years of age that age has been raised to eleven by the Elementary Education (School Attendance) Act, 1893, and again to twelve (subject to certain exceptions which may be made in the case of children to be employed in agriculture) by Robson's Act; (3) byelaws now extend very generally to fourteen years of age; (4) byelaws regulate the conditions under which exemption from school attendance can be claimed or employment be permitted in the case of all children within their scope. In these circumstances it is now seldom necessary to make use of the provisions of §5 of this Act except in cases of the illegal employment of children between the ages of thirteen and fourteen in districts in which the byelaws do not extend to the latter age. *See* the Elementary Education Act, 1880, §§2 and 4 (p. 311), the Elementary Education (School Attendance) Act, 1893, §§1 and 2 (p. 323), Robson's Act, §1 (p. 325), and the Elementary Education Act, 1900, §§6 and 7 (p. 329), and the Appendix to the last-mentioned Act.

⁴ For the certificates of proficiency or of previous due attendance, *see* Schedule I., *infra*.

⁵ For the meaning of the term 'certified efficient school,' *see* §48, *infra*.

Penalty for Employing a Child in Contravention of Act.

6. Every person who takes a child into his employment in contravention of this Act shall be liable, on summary conviction, to a penalty not exceeding forty shillings.¹

¹ Section 2 of the Elementary Education (School Attendance) Act, 1893, provides that if a person takes a child into his employment in such a manner as to prevent the child from attending school in accordance with the byelaws for the time being in force in the district in which the child resides, he shall be deemed to take the child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

See also §47 of this Act, *infra*, and §4 of the Elementary Education Act, 1880 (p. 312).

Enforcement of Act by School Board or School Attendance Committee of existing Local Authority or by Inspectors of Factories or Mines.

7. The provisions of this Act respecting the employment of children shall be enforced¹—

- (1.) In a school district within the jurisdiction of a school board by that board; and
- (2.) In every other school district by a committee (in this Act referred to as a school attendance committee) appointed annually, if it is a borough, by the council of the borough, and, if it is a parish, by the guardians of the union comprising such parish.

A school attendance committee under this section may consist of not less than six nor more than twelve members of the council or guardians appointing the committee,² so, however, that, in the case of a committee appointed by guardians, one-third at least shall consist of ex-officio guardians, if there are any and sufficient ex-officio guardians.³

Every such school board and school attendance committee² (in this Act referred to as the local authority)⁴ shall, as soon as may be, publish the provisions of this Act within their jurisdiction in such manner as they think best calculated for making those provisions known.

Provided that it shall be the duty of the inspectors and sub-inspectors acting under the Acts regulating factories, workshops, and mines respectively, and not of the local authority, to enforce the observance by the employers of children in such factories, workshops, and mines of the provisions of this Act respecting the employment of children; but it shall be the duty of the local authority to assist the said inspectors and sub-inspectors in the performance of their duty by information and otherwise.

It shall be the duty of such local authority to report to the Education Department any infraction of the provisions of section seven of the Elementary Education Act, 1870, in any public elementary school within their district which may come to their knowledge, and also to forward to the Education Department any complaint which they may receive of the infraction of those provisions.

¹ Section 5 of the Education Act, 1902, provides that the local education authority acting under Part III. of that Act shall throughout their area have the powers and duties of a school board and school attendance committee under the Elementary Education Acts, 1870 to 1900, and any other Acts, including local Acts, and that school boards and school attendance committees shall be abolished.

² The words 'and (2) in every' to 'appointing the committee,' and the words 'and school attendance committee' are repealed by the Education Act, 1902. The powers and duties of a school attendance committee under the repealed provisions are such as belonged to school boards independently of these provisions, and in view of the provision in §5 of the Education Act, 1902, that the local education authority shall throughout their area have the powers and duties of a school board, the reference in the repealed provisions to the powers and duties of a school attendance committee becomes unnecessary.

³ The words from 'so, however,' to 'sufficient ex-officio guardians' were repealed

by the Local Government Act, 1894, which abolished the ex-officio guardianship of justices of the peace.

⁴ Alternative provisions are enacted by §33, *infra*, with reference to the appointment or composition of school attendance committees appointed for the purpose of enforcing the provisions of this Act in certain urban districts.

Employment and Education of Children in Factories, etc.

8. *Whereas by sections fourteen and fifteen of the Workshop Regulation Act, 1867, provision is made respecting the education of children employed in workshops, and it is expedient to substitute for the said sections the provisions respecting education of the Factory Acts, 1844 and 1874: Be it therefore enacted, that sections thirty-one, thirty-eight, and thirty-nine of the Factory Act, 1844, and sections twelve and fifteen of the Factory Act, 1874, shall apply to the employment and education of all children employed in factories subject to the Factory Acts, 1833 to 1871, and not subject to the Factory Act, 1874, or in workshops subject to the Workshop Acts, 1867 to 1871.*

Provided that section twelve of the Factory Act, 1874, shall not apply to any child so employed who has attained the age of eleven years before the commencement of this Act.¹

¹ This section was repealed by the Factory and Workshop Act, 1878.

Exception to Prohibition of Employment of Children.

9. A person shall not be deemed to have taken any child into his employment contrary to the provisions of this Act, if it is proved to the satisfaction of the court having cognisance of the case either—

- (1.) That during the employment there is not within two miles, measured according to the nearest road, from the residence of such child any public elementary school open which the child can attend ; or
- (2.) That such employment, by reason of being during the school holidays, or during the hours during which the school is not open, or otherwise, does not interfere with the efficient elementary instruction of such child, and that the child obtains such instruction by regular attendance for full time at a certified efficient school or in some other equally efficient manner ; or
- (3.) That the employment is exempted by the notice of the local authority herein-after next mentioned ; (that is to say,)

The local authority may,¹ if it thinks fit, issue a notice exempting from the prohibitions and restrictions of this Act the employment of children above the age of eight years, for the necessary operations of husbandry and the ingathering of crops, for the period to be named in such notice : Provided that the period or periods so named by any such local authority shall not exceed in the whole six weeks between the first day of January and the thirty-first day of December in any year.

The local authority shall cause a copy of every notice so issued

to be sent to the Education Department and to the overseers of every parish within its jurisdiction, and the overseers shall cause such notice to be affixed to the door of all churches and chapels in the parish, and the local authority may further advertise any such notice in such manner (if any) as it may think fit.

¹ Section 2 of the Elementary Education (School Attendance) Act, 1893, prohibits the employment of a child in such manner as to prevent the child from attending school in accordance with the byelaws for the time being in force in the district in which the child resides, and this prohibition is not subject to §9 (3) of the present Act. The power therefore given to a local authority by this subsection is now of no avail except in the case of children who are beyond the limits of age fixed by the byelaws of the district in which they reside.

For the special byelaw which may be made in the case of children between eleven and thirteen years who are to be employed in agriculture, *see* §1 of Robson's Act, (p. 325), and byelaw 5 (c) in the model form of byelaws (p. 332).

Payment of School Fees for Poor Parents.

10. The parent, not being a pauper, of any child who is unable by reason of poverty to pay the ordinary fee for such child at a public elementary school, or any part of such fee, may apply to the guardians having jurisdiction in the parish in which he resides; and it shall be the duty of such guardians, if satisfied of such inability, to pay the said fee, not exceeding threepence a week, or such part thereof as he is, in the opinion of the guardians, so unable to pay.¹

The parent shall not by reason of any payment made under this section be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

Payment under this section shall not be made on condition of the child attending any public elementary school other than such as may be selected by the parent, nor refused because the child attends, or does not attend, any particular public elementary school.

*The twenty-fifth section of the Elementary Education Act, 1870, is hereby repealed.*²

¹ The provisions of the first part of this section, which has never been repealed, must now be read in the light of §5 of the Elementary Education Act, 1891, and of Schedule III. (5) of the Education Act, 1902, which provides that the duty of a local education authority under the Education Acts, 1870 to 1902, to provide a sufficient amount of public school accommodation shall include the duty to provide a sufficient amount of public school accommodation without payment of fees in every part of their area.

² The last paragraph of the section was repealed by the Statute Law Revision Act, 1883.

Provision as to Order of Court for Attendance at School of Child habitually Neglected by Parent or habitually Wandering and Consorting with Criminals or Disorderly Persons.

11. If either—

(1.) The parent of any child above the age of five years who is under

this Act prohibited from being taken into full time employment¹ habitually and without reasonable excuse neglects to provide efficient elementary instruction for his child ; or

- (2.) Any child is found habitually wandering or not under proper control, or in the company of rogues, vagabonds, disorderly persons, or reputed criminals ;

it shall be the duty of the local authority, after due warning to the parent of such child, to complain to a court of summary jurisdiction, and such court may, if satisfied of the truth of such complaint, order that the child do attend some certified efficient school willing to receive him² and named in the order, being either such as the parent may select, or, if he do not select any, then such public elementary school as the court think expedient, and the child shall attend that school every time that the school is open, or in such other regular manner as is specified in the order.³

An order under this section is in this Act referred to as an attendance order.

Any of the following reasons shall be a reasonable excuse :

- (1.) That there is not within two miles, measured according to the nearest road, from the residence of such child any public elementary school open which the child can attend ; or
- (2.) That the absence of the child from school has been caused by sickness or any unavoidable cause.⁴

¹ These words 'prohibited from being taken into full time employment' are not limited to the prohibition enacted by §8, *supra*, but apply to any child prohibited from being taken into employment by §5. The Court of Queen's Bench so held in the cases of *Wynyard v. Toogood* and *Hance v. Fortnum*, 10 Q.B.D. 218, overruling a decision to the contrary effect in *Saunders v. Crawford*, 9 Q.B.D. 612. The court accordingly decided that an order might be made under this section in respect of two children aged nine and thirteen, neither of whom was in any employment nor attending any school nor had obtained any certificate under §5.

² It is the duty of the local education authority on complaint under this section to name some certified efficient school and to satisfy the justices that such school is willing to receive the child (*Thompson v. Rose*, 65 L.T. 851).

³ The provisions of this section are applicable only to cases falling under paragraphs (1) and (2) (*ad init.*). Cases of non-attendance at school which cannot properly be brought within the express conditions of these paragraphs can as a rule be sufficiently dealt with by proceedings instituted under the byelaws.

It is also provided by §4 of the Elementary Education Act, 1880, that proceedings may, in the discretion of the local authority, or person instituting the same, be taken for punishing the contravention of a byelaw (which will generally be found the most convenient course), notwithstanding that the act or neglect or default alleged as such contravention constitutes habitual neglect to provide efficient elementary education for a child within the meaning of §11 of the Elementary Education Act, 1876.

It will, however, be necessary to take proceedings under this section where, in consequence of such act or neglect as is specified in the section, it appears to be desirable that the child should be sent to a certified industrial or certified day industrial school. See §12 (1) and (2), *infra*.

Further, a school certified by the Board of Education under the Elementary Education (Blind and Deaf Children) Act, 1893, or under the Elementary Education (Defective and Epileptic Children) Act, 1899, is deemed to be a certified efficient school within the meaning of the Elementary Education Act, 1876, and may, for the purposes of §11 of the last-mentioned Act, be treated in the case of children who are

blind, or deaf, or defective, or epileptic, as the case may be, as if it were a public elementary school. See §7 (2) of the Act of 1893 (p. 680), and §5 of the Act of 1899 (p. 694).

A certified day industrial school is also to be deemed to be a certified efficient school within the meaning of this Act (§16, *infra*).

'There may be other reasonable excuses besides those specified and they need not necessarily be *ejusdem generis* with those specified. Thus in a case when the byelaws provided that 'any of the following reasons shall be a reasonable excuse, viz.: (a) that the child is under efficient instruction in some other way; (b) that the child has been prevented from attending school by sickness or an unavoidable cause; (c) that there is no public elementary school open which the child can attend within two miles, the court held that the justices might decide that it was a reasonable excuse that the parent had done all that could reasonably be expected of him to secure the attendance of the child at school and had reasonable grounds for believing and did believe that the child was attending, although, in fact, it often failed to attend' (*Belper School Attendance Committee v. Bayley*, 9 Q.B.D., 259). In another case where the provisions in the byelaw were similar and the child was a girl aged twelve who had received fair elementary instruction and was in respectable employment, earning wages which she gave to her parents, who were poor, industrious, and respectable people, and were thereby enabled to support their other children which otherwise, through no fault of theirs, they could not have done, the court said that these facts constituted a reasonable excuse (*London School Board v. Duggan*, 13 Q.B.D., 176).

Proceedings on Disobedience to Order of Court for Attendance at School.

12. Where an attendance order is not complied with, without any reasonable excuse within the meaning of this Act, a court of summary jurisdiction, on complaint made by the local authority, may, if it think fit, order as follows:

- (1.) In the first case of non-compliance, if the parent¹ of the child does not appear, or appears and fails to satisfy the court that he has used all reasonable efforts to enforce compliance with the order, the court may impose a penalty not exceeding with the costs *five*² shillings; but if the parent satisfies the court that he has used all reasonable efforts as aforesaid, the court may, without inflicting a penalty, order the child to be sent to a certified day industrial school,³ or if it appears to the court that there is no such school suitable for the child, then to a certified industrial school; and
- (2.) In the second or any subsequent case of non-compliance with the order, the court may order the child to be sent to a certified day industrial school, or if it appears to the court that there is no such school suitable for a child then to a certified industrial school, and may further in its discretion inflict any such penalty as aforesaid, or it may for each such non-compliance inflict any such penalty as aforesaid without ordering the child to be sent to an industrial school;

Provided that a complaint under this section with respect to a continuing non-compliance with any attendance order shall not be repeated by the local authority at any less interval than two weeks.

A child shall be sent to a certified industrial school or certified day

industrial school in pursuance of this section in like manner as if sent in pursuance of the Industrial Schools Act, 1866, and when so sent shall be deemed to have been sent in pursuance of that Act and the Acts amending the same; and the parent, if liable under the said Acts to contribute to the maintenance and training of his child when sent to an industrial school, shall be liable so to contribute when his child is sent in pursuance of this section.

¹ An attendance order made on the father cannot after his death be enforced against the mother (*Hance v. Fairhurst*, 51 L.J.M.C., 139).

² Section 6 (2) of the Elementary Education Act, 1900 (p. 329), substitutes twenty shillings for five shillings as the maximum penalty under this section.

³ Where an attendance order had been made and not complied with and the parent proved that he had used all reasonable efforts to enforce compliance with the order, the Court of Queen's Bench held that although this might have been a 'reasonable 'excuse' sufficient to afford a defence to the parent in proceedings for inflicting a penalty on him (*see note to §11, supra*), it did not prevent the magistrate from having jurisdiction to make an order under this section sending the boy to a certified day industrial school (*Hewett v. Thompson*, 80 L.T., 268).

Duty of Local Authority as to taking Proceedings under this Act or 29 & 30 Vict. c. 118.

13. Where the local authority are informed by any person of any child in their jurisdiction who is stated by that person to be liable to be ordered by a court under this Act to attend school, or to be sent under this Act, or the Industrial Schools Act, 1866, to an industrial school, it shall be the duty of the local authority to take proceedings under this Act or the Industrial Schools Act, 1866, accordingly, unless the local authority think that it is inexpedient to take such proceedings.

Provided that nothing in this section shall relieve the local authority from the responsibility of performing their duty under the other provisions of this Act.

INDUSTRIAL SCHOOL.

License to Child sent to Industrial School to live out while attending School.

14. Where a child is sent to a certified industrial school under this Act or the Industrial Schools Act, 1866, upon the complaint or representation of the local authority under this Act, the managers of such school may, if they think fit, at any time after the expiration of one month¹ after the child is so sent, give him a license under section twenty-seven of the Industrial Schools Act, 1866, to live out of the school, but the license shall be conditional upon the child attending as a day scholar, in such regular manner as is specified in the license, some school willing to receive him and named in the license, and being a certified efficient school.

¹ The period of detention in ordinary cases under the Industrial Schools Acts is eighteen months, and the effect of this substitution was to enable the powers of those Acts to be employed to establish schools, which though called industrial schools should

be set apart exclusively for truants. The truant schools conducted in accordance with this section are, 'in the eye of the law, ordinary industrial schools, but actually are 'different' (Report of Departmental Committee on Reformatory and Industrial Schools, 1896).

Amendment as to Provision of Industrial School by School Board.

15. The consent of one of Her Majesty's Principal Secretaries of State, and not of the Education Department,¹ shall be required for the establishing, building and maintaining of a certified industrial or certified day industrial school by a school board, and to the spreading of the payment of the expense of such establishment and building over a number of years *not exceeding fifty*,² and to the borrowing of money for that purpose; and for the purpose of such borrowing, section ten of the Elementary Education Act, 1873,² shall be held to apply to the loan in like manner as if one of Her Majesty's Principal Secretaries of State were substituted therein for the Education Department, and such establishment and building shall be deemed to be a work for which a school board is authorised to borrow within the meaning of the first schedule to the Public Works Loans Act, 1875.

¹ This section amends §28 of the Elementary Education Act, 1870.

The powers of school boards under this section are transferred by the Education Act, 1902, to the local education authorities acting under Part III. of that Act. See the Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741).

² Section 10 of the Elementary Education Act, 1873, is repealed by the Education Act, 1902, and it is provided by Schedule III. (8) of that Act, that a reference to the provisions thereof as to borrowing shall be substituted in §15 of the Elementary Education Act, 1876, for the reference to §10 of the Elementary Education Act, 1873, and a reference to the Local Government Board shall be substituted for the second reference in that section to the Education Department.

Further, the words 'not exceeding fifty,' in this section, are repealed by the Education Act, 1902.

The effect of these provisions appears to be that local education authorities acting as the successors of school boards will have power, subject to the consent of the Home Secretary, to establish or build a certified industrial or certified day industrial school, and to borrow for the purpose as for the purposes of the Education Act, 1902, except that the consent of the Home Secretary (and not of the Local Government Board, as in other cases of borrowing under that Act) will be required to the loan being raised, and to the repayment being spread over a term of years, the maximum term for this purpose being, in future, thirty years instead of fifty.

See also the Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741).

DAY INDUSTRIAL SCHOOL.

Establishment, etc., of Day Industrial Schools.¹

16. If a Secretary of State is satisfied that, owing to the circumstances of any class of population in any school district, a school in which industrial training, elementary education, and one or more meals a day, but not lodging, are provided for the children, is necessary or expedient for the proper training and control of the children of such class, he may, in like manner as under The Industrial Schools Act, 1866, certify any such school

(in this Act referred to as a day industrial school) in the neighbourhood of the said population to be a certified day industrial school.

Any child authorised by The Industrial Schools Act, 1866, to be sent to a certified industrial school, may, if the court before whom the child is brought think it expedient, be sent to a certified day industrial school; any child sent to a certified day industrial school by an order of a court (other than an attendance order under this Act) may during the period specified in the order be there detained during such hours as may be authorised by the rules of the school approved by the said Secretary of State.

A certified day industrial school shall be deemed to be a certified efficient school within the meaning of this Act.

In the case of a certified day industrial school,—

- (1.) A prison authority within the meaning of The Industrial Schools Act, 1866, and a school board shall respectively have the same powers in relation to a certified day industrial school as they have in relation to a certified industrial school; and
- (2.) There may be contributed out of moneys provided by Parliament towards the custody, industrial training, elementary education, and meals of children sent by an order of a court other than an attendance order under this Act to a certified day industrial school such sums not exceeding one shilling per head per week, and on such conditions as a Secretary of State from time to time recommends; and
- (3.) Where a court of summary jurisdiction orders otherwise than by an attendance order under this Act a child to be sent to a certified day industrial school, the court shall also order the parent of such child, if liable to maintain him, to contribute to his industrial training, elementary education, and meals in the school, such sum, not exceeding two shillings per week, as is named in the order; it shall be the duty of the local authority to obtain and enforce the said order, and every sum paid under the order shall be paid over to the local authority in aid of their expenses under this Act; if a parent resident in any parish is unable to pay the sum required by the said order to be paid, he shall apply to the guardians having jurisdiction in the parish, who, if satisfied of such inability, shall give the parent sufficient relief to pay the said sum, or so much thereof as they consider him unable to pay, and the money so given shall be charged to the parish as provided by this Act in the case of money given for the payment of school fees; and
- (4.) The managers of a certified day industrial school may, upon the request of a local authority and of the parent of a child, and upon the undertaking of the parent to pay towards the industrial training, elementary education, and meals of such child such sum, not less than one shilling a week, as a Secretary of State from

time to time fixes, receive such child into the school under an attendance order or without an order of a court; and there may be contributed out of moneys provided by Parliament in respect of that child such sum, not exceeding sixpence a week, and on such conditions as a Secretary of State from time to time recommends.

It shall be lawful for Her Majesty from time to time, by Order in Council, to apply to a certified day industrial school the provisions of The Industrial Schools Act, 1866, and the Acts amending the same, with such modifications as appear to Her Majesty to be necessary or proper for adapting such provisions to a day industrial school, and bringing them into conformity with this Act; and such Order may provide that a child may be punished for an offence by being sent to a certified industrial, in lieu of a certified reformatory school, or may otherwise mitigate any punishment imposed by the said Act.

It shall be lawful for Her Majesty from time to time, by Order in Council, to revoke and vary any Order in Council made under this section.

Every such Order shall be laid before both Houses of Parliament within one month after it is made, if Parliament be then sitting, or if not, within one month after the beginning of the then next session of Parliament, and while in force shall have effect as if it were enacted in this Act.

A Secretary of State may from time to time make, and when made, revoke and vary, the forms of orders for sending a child to a day industrial school, and the manner in which children are to be sent to such school.

If a Secretary of State is of opinion that, by reason of a change of circumstances or otherwise, a certified day industrial school ceases to be necessary or expedient for the proper training and control of the children of any class of population in the neighbourhood of that school, he may, after due notice, withdraw the certificate of the school, and thereupon such school shall cease to be a certified day industrial school.

Provided, that the reasons for withdrawing such certificate shall be laid before both Houses of Parliament within one month after notice of the withdrawal is given, if Parliament be then sitting, or if not, within one month after the then next meeting of Parliament.

¹ Day industrial schools, which were first established by this Act, are regulated (1) by the provisions of this Act; (2) by an Order in Council dated the 20th March 1877, which was made under the powers of this Act, and applied to them, with certain modifications, the provisions of the Acts relating to boarding industrial schools; (3) by an order of the Secretary of State dated the 4th January 1878; (4) by the general regulations which he makes for their governance; (5) by recommendations of the Secretary of State of the 9th August 1881, as to parliamentary grants; and (6) by a Supplementary Order in Council (as to licences) of the 25th October 1881. (Appendix I. to Reformatory and Industrial Schools Committee Report, 1896.)

See also Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741).

Conditions of Contribution to Day Industrial Schools.

17. The conditions of a parliamentary contribution to a certified day industrial school, to be recommended by the Secretary of State, shall provide for the examination of the children according to the standards of proficiency for the time being in force for the purposes of a parliamentary grant to public elementary schools; but may vary the amounts of the contributions to be made in respect of such standards respectively.

Any conditions recommended by a Secretary of State for the purposes of contributions to a day industrial school shall be laid before Parliament in the same manner as minutes of the Education Department relating to the annual parliamentary grant.

PARLIAMENTARY GRANT.

Contribution for Fees of Children who obtain Certificates.

18. *Where, during the first five years after the commencement of this Act, or any further period which Her Majesty may from time to time fix by Order in Council, a child, before he has attained the age of eleven years, obtain such certificate of proficiency in reading, writing, and elementary arithmetic, and also such certificate of previous due attendance at a public elementary school, as are in this Act in that behalf mentioned, then, subject to the regulations and conditions contained in an order of the Education Department for the time being in force under the First Schedule to this Act, the school fee payable by such child at any public elementary school in the course of the three years next after he obtains the last of such certificates, not exceeding the ordinary fee charged at such school, may be paid by the Education Department out of moneys provided by Parliament, the school fees so paid to be reckoned as school pence to be met by the grant payable by the Department.*¹

¹ This section was repealed by the Elementary Education Act, 1891, *post*.

Amendment of 33 & 34 Vict. c. 75, s. 97, as to Conditions of Annual Parliamentary Grant.

19. *So much of section ninety-seven of 'The Elementary Education Act, 1870,' as enacts that the conditions required to be fulfilled by an elementary school in order to obtain the annual parliamentary grant shall provide that the grant shall not for any year exceed the income of the school for that year which was derived from voluntary contributions and from school fees, and from any sources other than the parliamentary grant, shall be repealed as from the thirty-first day of March one thousand eight hundred and seventy-seven.*¹

After the thirty-first day of March one thousand eight hundred and seventy-seven the conditions required to be fulfilled by an elementary school in order to obtain the annual parliamentary grant, shall provide that—

- (1.) *Such grant shall not in any year be reduced by reason of its excess above the income of the school if the grant do not exceed the amount of seventeen*

shillings and sixpence per child in average attendance at the school during that year, but shall not exceed that amount per child, except by the same sum by which the income of the school, derived from voluntary contributions, rates, school fees, endowments, and any source whatever other than the parliamentary grant exceeds the said amount per child²; and

- (2.) Where the population of the school district³ in which the school is situate, or the population within two miles, measured according to the nearest road, from the school, is less than three hundred, and there is no other public elementary school recognised by the Education Department as available for the children of that district, or that population (as the case may be), a special parliamentary grant may be made annually to that school to the amount, if the said population exceeds two hundred, of ten pounds, and, if it does not exceed two hundred, of fifteen pounds; and
- (3.) The said special grant shall be in addition to the ordinary annual parliamentary grant, and shall not be included in the calculation of that grant for the purpose of determining whether it does or not exceed the amount before in this section mentioned.⁴

¹ The first paragraph of this section was repealed by the Statute Law Revision Act, 1883, and the words in italics in the second paragraph were repealed by the Statute Law Revision Act, 1894.

² Subsection 1, enacting the so-called 'seventeen-and-sixpenny limit' to the annual parliamentary grant, was repealed as from the 31st March 1897, for all day schools, whether provided or not provided by a school board, by §2 of the Voluntary Schools Act, 1897 (p. 709). Since the date mentioned the subsection has only applied to evening schools which were conducted as public elementary schools. See §22 (1) and (2) of the Education Act, 1902, *ante*.

³ The Education Act, 1902, Schedule III. (1), *ante*, provides that in this paragraph references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

The special grant provided by this paragraph is the grant payable under Article 104 of the Code, and the effect of the provision above-mentioned will be to make the grant payable in the case of a school which, though situated in a parish within the limit of population specified, was debarred from receiving the grant owing to the parish forming part of a united school district the population of which exceeded that limit.

See also §2 of the Education Code (1890) Act, 1890, and the note thereon (p. 315).

⁴ This provision has ceased to be operative since the repeal of the 'seventeen-and-sixpenny limit' (note 2, *supra*).

Conditions for obtaining Parliamentary Grant.

20. The conditions required to be fulfilled by schools in order to obtain annual parliamentary grants shall provide that the income of the schools shall be applied only for the purpose of public elementary schools.¹

¹ When this section was enacted in 1876 there was the risk of two abuses against which it was necessary to make provision, viz. (1) the evasion of the 'seventeen-and-sixpenny limit' by the inclusion in the school accounts of expenditure, such as capital expenditure, which although legitimate in itself was not properly to be regarded as expenditure on account of the school's maintenance, and the corresponding inclusion of

income to meet this expenditure to an amount sufficient to prevent the operation of the 'seventeen-and-sixpenny limit,' or, after 1897, to increase the apparent amount of the voluntary subscriptions for the purposes of §1 (2) of the Voluntary Schools Act, 1897; (2) the misappropriation of the parliamentary grant or other income of the school to non-educational or other improper purposes.

The second of these risks was otherwise obviated, in the case of schools provided by a school board, by the provision made for the audit of school board accounts by the district auditor, and the first was met, to a considerable extent, by the repeal by §2 of the Voluntary Schools Act, 1897, of the 'seventeen-and-sixpenny limit.' The Education Act, 1902, repeals §1 of the Voluntary Schools Act, and subjects to audit by the district auditor the whole of the expenditure incurred in maintaining and keeping efficient public elementary schools, except so far as that expenditure is met, in the case of schools not provided by the local education authority, out of income specially applicable for purposes for which provision is to be made by the managers.

BYELAWS.

School Attendance Committee to have like powers with School Boards of enforcing by byelaw Attendance of Children.

21. In a school district not within the jurisdiction of a school board, if it is a borough the school attendance committee may, if they think fit, and if it is a parish the school attendance committee for the union comprising such parish on the requisition of the parish, but not otherwise, shall make byelaws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, as if such school attendance committee were a school board.¹

¹ The words in this section 'may if they think fit' and 'on the requisition of the parish but not otherwise' were repealed by the Elementary Education Act, 1880. See §§2 and 3 of that Act (p. 311), and as to the repeal of this section by the Education Act, 1902, see note 2 to §7 of this Act, *supra*.

Provision as to Requisition of Parish.

22. The requisition of a parish to a school attendance committee for the purpose of this Act, if made, shall be made by a resolution passed by the same persons, and in the same manner, and subject to the same regulations of the Education Department, as a resolution for an application to the Education Department for a school board, and the expenses incurred with reference to such resolution may be paid in like manner.

The requisition may be accompanied by representations, made by a resolution passed in like manner, as to the nature of the byelaws desired by the parish, and in making and approving the byelaws, the school attendance committee and the Education Department shall consider and have due regard to such representations.¹

¹ This section was repealed by the Elementary Education Act, 1880, *post*.

Provision as to Byelaws under s. 74 of the Elementary Education Act, 1870 (33 & 34 Vict. c. 75), as extended by this Act.

23. For the purposes of this Act section seventy-four of the Elementary Education Act, 1870, and all enactments of that or any other Act referring to byelaws under that section, shall be construed as if 'school board' included the authority authorised by this Act to make byelaws:

Provided that nothing in any byelaw shall authorise the authority making the same in pursuance of this Act to remit or pay any fees.¹

It shall be the duty of every local authority to enforce the byelaws made by that authority in pursuance of section seventy-four of the Elementary Education Act, 1870.

¹ As to the repeal of the first two paragraphs of this section by the Education Act, 1902, see note 2 to §7 of this Act, *supra*.

ADMINISTRATIVE PROVISIONS.

Supplemental Provisions as to Certificates of Proficiency and previous Attendance at School.

24. The certificates of proficiency of a child in reading, writing, and elementary arithmetic, and of the previous due attendance of a child at a certified efficient school¹ for the purposes of this Act, shall be certificates of proficiency and previous due attendance ascertained according to the standards set forth in the First Schedule² to this Act, and such certificate shall be granted to the child entitled to the same free of cost or charge to such child, or to the parent of such child.

The Education Department may from time to time by order make, and when made revoke and vary regulations with respect to certificates of age for the purposes of this Act, and the persons by whom and the form in which certificates of the said proficiency and due attendance are to be granted, and with respect to other matters relating thereto, and with respect to the preservation of registers and other records of such proficiency and attendance, and such regulations shall be observed by the local authority and the managers of certified efficient schools.

All regulations made by the Education Department under this section shall be laid before Parliament in the same manner as minutes of the Education Department relating to the annual parliamentary grant.

¹ For the meaning of the expression 'certified efficient school,' see §48, *infra*, and the note thereon.

² The standard of proficiency set forth in the First Schedule, and the standard of previous due attendance set forth in that Schedule as amended by §7 of the Elementary Education Act, 1900, are respectively Standard IV. or any higher standard of the Code of 1876, and 350 attendances after five years of age in not more than two schools during each year for five years, whether consecutive or not.

As to the forms used for the purposes of these certificates, see the Revised Regulations of the 21st March 1901, and the Schedules thereto (pp. 341 to 348), but see also note to §5 of this Act, *supra*.

Certificates of Birth for Purposes of Act.

25. Where the age of any child is required to be ascertained or proved for the purposes of this Act, or for any purpose connected with the elementary education or employment in labour of such child, any person on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board,

and on payment of such fee, not exceeding one shilling, as the Local Government Board from time to time fix, shall be entitled to obtain a certified copy under the hand of the registrar or superintendent registrar of the entry in the register under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of the child named in the requisition.¹

¹ The corresponding provision of the Factory and Workshop Act, 1901 (§134), fixes the fee payable for this certificate at sixpence. The form of requisition applicable for the purpose of this provision is that given in Schedule I. to the Revised Regulations of the 21st March 1901, which was prescribed by order of the Local Government Board dated the 20th October, 1891, and by virtue of §161 of the Factory and Workshop Act, 1901, still remains applicable for this purpose. See pp. 341 and 344.

Returns of Registrars of Births and Deaths to School Boards.

26. Every registrar of births and deaths, when and as required by a local authority, shall transmit, by post or otherwise, a return of such of the particulars registered by him concerning deaths and births of children, as may be specified in the requisition of the local authority.

The local authority may supply a form, approved by the Local Government Board, for the purpose of the return, and in that case the return shall be made in the form so supplied.

The local authority may pay, as part of their expenses under this Act, to the registrar making such return, such fee as may be agreed upon between them and the registrar, not exceeding twopence for every birth and death entered in such return.

Provision in case of Failure of Local Authority to perform their duty under this Act.

27. If the Education Department are satisfied, after such inquiry and such notice to any local authority as they think expedient, that such authority have failed to fulfil their duty under this Act, the Education Department (without prejudice to any other remedy)—

- (a.) If the authority are a school board, may proceed as if such board were a school board in default within the meaning of the Elementary Education Act, 1870; and
- (b.) If the authority are not a school board, may by order appoint any persons for a specified period not exceeding two years to perform the duty of the defaulting school attendance committee under this Act, and from time to time change such persons.

During the said specified period the persons so appointed shall perform the duty of the defaulting school attendance committee under this Act, to the exclusion of that committee, and shall in the performance and for the purposes of such duty be invested with all the powers of the school attendance committee, but shall not be subject to any control on the part of the council or guardians who appointed the defaulting committee; but after the expiration of such period a school attendance committee shall forthwith be appointed by the council or guardians as the case may require, and shall resume the duty of the local authority under this Act, subject

nevertheless to any further proceeding under this section in the case of a new default.

All expenses incurred by persons appointed under this section by the Education Department to act in lieu of a defaulting school attendance committee, including such remuneration, if any, as the Education Department may assign to such persons, shall, to the amount certified by the Education Department to be due, be a debt to Her Majesty from the council or guardians by whom the defaulting committee were appointed, and may be recovered accordingly; and the certificate of the Education Department shall be conclusive evidence that the sum named in the certificate is due under this section.

*The Education Department shall annually report to Parliament the cases in which any proceedings have been taken by them in pursuance of this section.*¹

¹ This section is repealed by the Education Act, 1902. For the provision made by that Act in case of failure of the local education authority to fulfil any of their duties under the Elementary Education Acts, 1870 to 1900, see §16 of the Education Act, 1902, and the note thereon, *ante*.

Officers of Local Authority.

28. Every local authority, *but subject in the case of a school attendance committee to the approval herein-after mentioned*, shall direct one or more of their officers, *or the officers of the council or guardians by whom the committee are appointed*, to act in the execution of this Act, and of any byelaws in force within the jurisdiction of such authority, and may, if they think fit, pay him or them for so doing, and may, if need be, appoint and pay officers for the purpose.¹

¹ The words in italics in this section are repealed by the Education Act, 1902, sufficient obligation being imposed upon the local education authority by the words left unrepealed. See note 2 to §7, *supra*.

For the transfer of officers of a school attendance committee to the local education authority, see Schedule II. (16) and (17) of the Education Act, 1902, *ante*.

Power of Officer of Local Authority to enter Place of Employment.

29. If it appear to any justice of the peace, on the complaint of an officer of the local authority acting under this Act, that there is reasonable cause to believe that a child is employed in contravention of this Act in any place, whether a building or not, such justice may by order under his hand empower an officer of the local authority to enter such place at any reasonable time within forty-eight hours from the date of the order, and examine such place and any person found therein touching the employment of any child therein.

Any person refusing admission to an officer authorised by an order under this section, or obstructing him in the discharge of his duty, shall for each offence be liable on summary conviction to a penalty not exceeding twenty pounds.

Provision as to Powers and Expenses of School Board.

30. *The powers and expenses of a school board under this Act shall be deemed to be powers and expenses of that board under the Elementary Education Act, 1870, and the provisions of that Act, and any Act amending the same, shall apply thereto accordingly.*¹

¹ This section is repealed by the Education Act, 1902.

Expenses of Local Authority other than School Board.

31. *A school attendance committee under this Act shall not incur any expense, or appoint, employ, or pay any officer without the consent of the council or guardians by whom the committee were appointed, and where they are appointed by guardians, also of the Local Government Board, but with such consent may employ and pay any officer of such council or guardians. The expenses (if any) of a school attendance committee under this Act shall be paid,—*

- (1.) *Where the committee is appointed by a council, out of the borough fund or borough rate ; and*
- (2.) *Where the committee is appointed by a board of guardians, out of a fund to be raised out of the poor rate of the parishes in which the committee act for the purposes of this Act, according to the rateable value of each parish :*

*For the purpose of obtaining payment of such expenses, the board of guardians shall have the same powers as they have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor.*¹

¹ This section is repealed by the Education Act, 1902.

Provisions as to School Attendance Committee and Appointment of Local Committee.

32. *Subject to the provisions of this Act the council or guardians may from time to time add to or diminish the number of members of a school attendance committee appointed by them.*

A school attendance committee appointed by guardians shall act for every parish in the union which is not for the time being under any other local authority within the meaning of this Act.

A school attendance committee may, if they think fit, appoint different local committees for different parishes or other areas in their district for the purpose of giving the school attendance committee such aid and information in the execution of this Act as may be required by the committee appointing them, but any such local committee shall not have power to make any byelaws or take any proceeding before a court of summary jurisdiction under this Act.

A local committee may consist of not less than three persons, being, as the school attendance committee appointing them think fit, either wholly members of the council, guardians, or authority by whom that school attendance committee were appointed, or partly such members and partly other persons.

The provisions contained in the Second Schedule to this Act shall apply to every school attendance committee and local committee appointed under this Act.¹

¹ This section and the Second Schedule (which contained rules as to school attendance committees and local committees) are repealed by the Education Act, 1902.

*Power to authorise Appointment of School Attendance Committee
by Urban Sanitary Authority.*

33. *On the application of the urban sanitary authority of an urban sanitary district, which is not and does not comprise a borough, and which is co-extensive with any parish or parishes not within the jurisdiction of a school board, containing according to the last published census for the time being a population of not less than five thousand, the Education Department may by order authorise the sanitary authority of that district to appoint, and thereupon such authority may appoint, a school attendance committee, as if they were the council of a borough, and that committee, to the exclusion of the school attendance committee appointed by the guardians, shall enforce the provisions of this Act in the sanitary district, and be in that district the local authority for the purposes of this Act, and all the provisions of this Act shall apply accordingly as if the sanitary authority were the council of a borough.*

Provided, that the expenses (if any) of a school attendance committee appointed by an urban sanitary authority shall be paid out of a fund to be raised out of the poor rate of the parish or parishes comprised in the district of such authority, according to the rateable value of each parish, and the urban sanitary authority shall for the purpose of obtaining payment of such expenses, have the same power as a board of guardians have for the purpose of obtaining contributions to their common fund under the Acts relating to the relief of the poor, and the accounts of such expenses shall be audited as the accounts of other expenses of the sanitary authority.

Any byelaws in force in an urban sanitary district, or any part thereof, before the appointment of a school attendance committee by the sanitary authority of such district shall continue in force, subject nevertheless to be revoked or altered by the school attendance committee of the sanitary authority in pursuance of section seventy-four of 'The Elementary Education Act, 1870,' as amended by this Act.

Where an urban sanitary district is not, and does not comprise, a borough, and is not wholly within the jurisdiction of a school board, and is not within the foregoing provisions of this section, the urban sanitary authority of that district may from time to time appoint such number as the Education Department allow, not exceeding three, of their own members to be members of the school attendance committee for the union in which the district or the part thereof not within the jurisdiction of a school board is situate, and such members, so long as they are members of the sanitary authority, and their appointment is not revoked by that authority, shall be members of the school attendance committee, and have the same powers and authorities as if they had been appointed by the guardians.

Where a school board is appointed after the commencement of this Act for any parish which forms or comprises the whole or part of an urban sanitary district in which the school attendance committee is appointed by the urban sanitary authority,

such school attendance committee shall, at the expiration of two months after the election of the school board, cease to act for the urban sanitary district, and the school attendance committee appointed by the guardians shall be the local authority for so much of the urban sanitary district as is not under the school board.

All byelaws in force at the expiration of the said two months shall continue in force, subject to being revoked or altered by the local authority, in pursuance of section seventy-four of 'The Elementary Education Act, 1870,' as amended by this Act.¹

¹ This section is repealed by the Education Act, 1902, except as applied by that Act. §18 (1) of that Act provides that the expenses of a council under the Act shall, so far as not otherwise provided for, be paid in the case of the council of an urban district other than a borough, in manner provided by §33 of the Elementary Education Act, 1876, as respects the expenses mentioned in that section. See note 4 to §18 (1) of the Education Act, 1902, *ante*.

Clerk of School Attendance Committee of Guardians, and Application of Acts to Guardians and School Attendance Committee.

34. *In a union the clerk of the guardians shall be the clerk of the school attendance committee for the purposes of this Act.*

All enactments relating to guardians and their officers and expenses, and to relief given by guardians, shall, subject to the express provisions of this Act, apply as if the guardians, including the school attendance committee appointed by them, and their officers acting under this Act, and expenses incurred, and money paid for school fees and relief given under this Act, were respectively acting, incurred, and paid and given as relief, under the Acts relating to the relief of the poor, and the Local Government Board may make rules, orders, and regulations accordingly.

Any expenses incurred by officers of guardians in carrying into effect section twenty of 'The Elementary Education Act, 1873,' when paid by such guardians, may be charged by them to the parish in respect of which such expenses are incurred.¹

¹ This section is repealed by the Education Act, 1902.

Charge to Parish of Money for School Fees.

35. *Money given under this Act for the payment of school fees for any child of a parent who is not a pauper and is resident in any parish, shall be charged by the guardians having jurisdiction in such parish to that parish with other parochial charges.¹*

¹ See the note to §10, *supra*.

Effect of subsequent Appointment of School Board.

36. *Where a school board is appointed after the commencement of this Act for any school district, the authority acting at the time of such appointment as the local authority under this Act, shall continue so to act until the expiration of two months after the election of such board, and shall then cease so to act for such district; nevertheless, all byelaws previously made by the local authority shall continue in force, subject to be revoked or altered in respect of that district by the school board in pursuance of section seventy-four of the Elementary Education Act, 1870.¹*

¹ This section is repealed by the Education Act, 1902.

LEGAL PROCEEDINGS.

Application of 36 & 37 Vict. c. 86, ss. 23-5, to Penalties, and Punishment for fraudulently obtaining Payment of Fees.

37. Sections twenty-three, twenty-four, and twenty-five of the Elementary Education Act, 1873 (which provisions relate to legal proceedings and the forgery of certificates), shall so far as applicable apply in the case of offences and penalties under this Act, and proceedings for such offences and penalties and of certificates for the purposes of this Act, in like manner as if those sections were enacted in this Act, and in terms made applicable thereto.

And every person who shall fraudulently obtain or enable or procure any other person to obtain from any school board or local authority,¹ payment or remission of payment, or an order for payment, or remission of payment of any school fees, shall be liable on summary conviction to imprisonment for a period not exceeding fourteen days.²

An order which a court of summary jurisdiction have authority to make in pursuance of this Act may be made in manner provided by the Summary Jurisdiction Acts.

¹ As to the repeal of the words 'or local authority,' by the Education Act, 1902, see note 2 to §7, *supra*.

² As to the offence referred to in this paragraph, see the note to §10, *supra*.

No Prosecutions except with the authority of Two Members of a School Board or Local Authority.

38. No legal proceedings for non-attendance or irregular attendance at school shall be commenced in a court of summary jurisdiction by any person appointed to carry out the compulsory byelaws of a school board or local authority,¹ except by the direction of not less than two members of a school board² or school attendance committee.

¹ As to the repeal by the Education Act, 1902, of the words, 'or local authority,' and 'or school attendance committee,' see note 2 to §7, *supra*.

² Schedule III. (3) of the Education Act, 1902, provides that in this section references to members of a school board shall be construed as references to members of the education committee, or of any sub-committee appointed by that committee for school attendance purposes.

Exemption of Employer on proof of guilt of some other person.

39. Where the offence of taking a child into employment in contravention of this Act is in fact committed by an agent or workman of the employer, such agent or workman shall be liable to a penalty as if he were the employer.

Where a child is taken into employment in contravention of this Act on the production by or with the privity of the parent of a false or forged certificate, or on the false representation of his parent that the child is of an age at which such employment is not in contravention of this Act, that parent shall be liable to a penalty not exceeding forty shillings.

Where an employer charged with taking a child into his employment in contravention of this Act proves that he has used due diligence to enforce the observance of this Act, and either that some agent or workman of his employed the child without his knowledge or consent, or that the child was employed either on the production of a forged or false certificate and under the belief in good faith in the genuineness and truth of such certificate, or on the representation by his parent that the child was of an age at which his employment would not be in contravention of this Act, and under the belief in good faith in such representation, the employer shall be exempt from any penalty.

Where an employer satisfies the local authority, inspector, or other person about to institute a prosecution, that he is exempt under this section by reason of some agent, workman, or parent being guilty, and gives all facilities in his power for proceeding against and convicting such agent, workman, or parent, such authority, inspector, or person shall institute proceedings against such agent, workman, or parent and not against the employer.

MISCELLANEOUS.

Adaptation of 36 & 37 Vict. c. 86, s. 3, respecting Pauper Children to this Act.

40. *Whereas by section three of the Elementary Education Act, 1873, provision is made respecting the payment by guardians of the fees of pauper children, and with the view to adapt the said section to the provisions of this Act, it is expedient to substitute for the said section the enactment following: Be it therefore enacted, as follows:—*¹

Where relief out of the workhouse is given by the guardians or their order, by way of weekly or other continuing allowance, to the parent of any child above the age of five years who has not reached the standard in reading, writing, and arithmetic prescribed by standard three of the code of one thousand eight hundred and seventy-six, or who for the time being either is prohibited by this Act from being taken into full time employment, or is required by any byelaw under section seventy-four of the Elementary Education Act, 1870, as amended by this Act, to attend school, or to any such child, it shall be a condition for the continuance of such relief that elementary education in reading, writing, and arithmetic shall be provided for such child, and the guardians shall give such further relief (if any) as may be necessary for that purpose.

Any such relief to a parent as above mentioned shall not be granted on condition of the child attending any public elementary school, other than such as may be selected by the parent, nor refused because the child attends or does not attend any particular public elementary school.

The guardians shall not have power under this section to give any relief to a parent in order to enable such parent to pay more than the ordinary

fee payable at the school which he selects, or more than the fee which under this Act they can enable a parent to pay in any other case.

All relief given by guardians under this section shall be deemed to be relief within the meaning of the Acts relating to the relief of the poor, and shall be paid out of their common fund, and where given by the guardians of any union in the metropolis as defined by the Metropolitan Poor Act, 1867, shall be deemed to be expenses payable from the Metropolitan Common Poor Fund, within the meaning of section sixty-nine of that Act, and shall be repaid to such guardians accordingly.²

¹ The first paragraph of this section was repealed by the Statute Law Revision Act, 1894.

² It was decided that money granted under the Elementary Education Act, 1873, for which this section is substituted, need not be paid to the parents, but might at the discretion of the guardians be applied directly in payment of the school fees. (*In re Darlington Union*, 32 L. T., 320.)

This section is amended by §5 of the Elementary Education Act, 1880 (p. 313).

Dissolution of School Board under certain circumstances.

41. *Where application for the dissolution of a school board is made to the Education Department by the like persons and in the like manner as an application for the formation of a school board, under section twelve of The Elementary Education Act, 1870, nevertheless by a majority of not less than two-thirds of those who shall vote upon the occasion, and the Education Department are satisfied that no school and no site for a school is in the possession or under the control of the school board, and that there is a sufficient amount of public school accommodation for the district of the school board, and no requisition has been sent by the Education Department to such school board under section ten of the elementary Education Act, 1870, requiring them to supply public school accommodation, it shall be the duty of the Education Department to take the circumstances of the case into consideration, and if they shall be of opinion that the maintenance of a school board is not required for the purposes of education in the district, it shall be lawful for the Education Department, after such notice as they think sufficient, to order the dissolution of the school board: Provided always, that no application shall be made for the dissolution of a school board except within six months before the expiration of the period for which the school board has been elected, and no order for the dissolution of such school board shall take effect until after the expiration of such period, except that after the order is made an election of members of that board shall not be held.*

The Education Department by any such order shall make provision for the disposal of all money, furniture, books, documents and property belonging to the school board, and for the discharge out of the local rate of all the liabilities of the board, and such other provisions as appear to the Department necessary or proper for carrying into effect the dissolution of the board.

The Education Department shall publish the order in manner directed by The Elementary Education Act, 1873, with respect to the publication of notices, and after the date of such publication, or any later date mentioned in the order, the order shall have effect as if it were enacted by Parliament, without prejudice nevertheless

to the subsequent formation of a school board in the same school district ; all byelaws previously made by the school board shall continue in force, subject nevertheless to be revoked or altered by the local authority under this Act : Provided, that if after the dissolution of a school board in any school district the Education Department are of opinion that there is not a sufficient amount of public school accommodation in such school district they may after due notice cause a school board to be formed for such school district, and send a requisition to such school board in the same manner in all respects as if they had published a final notice under The Elementary Education Act, 1870.

The Education Department shall in each case where it shall assent to the dissolution of a school board lay before both Houses of Parliament a statement of its reasons for giving such assent.¹

¹ This section is repealed by the Education Act, 1902.

Provisions of Offices by School Board with consent of Education Department.

42. *Where a school board satisfy the Education Department that having regard to the large population of the district of such board, it is necessary or proper that the board should provide an office, the Education Department may authorise the board to provide an office, and the board shall for that purpose have the same power as they have under the Elementary Education Acts, 1870 to 1873, for the purpose of providing sufficient school accommodation for their district, including the power of borrowing money under section ten of the Elementary Education Act, 1873, and the provision of such office shall be deemed to be a work for which a school board is authorised to borrow within the meaning of the Public Works Loans Act, 1875.¹*

¹ This section is repealed by the Education Act, 1902. Local education authorities have power to provide necessary offices, and to borrow money for the purpose, in the case of county councils, under §§65 and 69 of the Local Government Act, 1888 ; in the case of borough councils, under §§105 and 106 of the Municipal Corporations Act, 1882, as amended by §72 of the Local Government Act, 1888 ; and in the case of urban district councils, under §§175 and 233 of the Public Health Act, 1875.

Local Authority to send Returns.

43. *The local authority under this Act (although not a school board) shall send to the Education Department such returns and information respecting their proceedings under this Act, and respecting matters on which school boards can be required under 'The Elementary Education Act, 1870,' to make returns, as the Education Department from time to time require.¹*

¹ As to the repeal of this section, see note 2 to §7, *supra*.

Amendment of 33 & 34 Vict. c. 75, as to Elections to fill Casual Vacancies in School Board.

44. *From and after the passing of this Act the Elementary Education Act, 1870, shall be construed as if there were substituted for the rule numbered fifteen*

in the first part of the Second Schedule to that Act, which is repealed by this Act, the rule in the Third Schedule to this Act; and any reference to the said Second Schedule, or the first part thereof, shall be construed to refer to the same with the rule so substituted, but the said substitution shall not affect anything done before the passing of this Act.¹

¹ The words 'From and after the passing of this Act,' and the words from 'but the 'said substitution,' to the end of the section, were repealed by the Statute Law Revision Act, 1894. The words 'which is repealed by this Act' were repealed by the Statute Law Revision Act, 1883. The rest of the section is repealed by the Education Act, 1902.

Application of 33 & 34 Vict. c. 75, ss. 83, 84, to Orders and Documents of Education Department.

45. The provisions of the Elementary Education Act, 1870, with respect to orders and documents of the Education Department, shall apply to all orders and documents of the Education Department under this Act.¹

¹ See §7 of the Board of Education Act, 1899.

Effect of Schedules.

46. The schedules to this Act shall have effect as if they were enacted in the body of this Act.

Definition of Employment in Case of Parent.

47. A parent of a child who employs such child in any labour exercised by way of trade or for the purposes of gain shall be deemed for the purposes of this Act to take such child into his employment.¹

¹ A father of a child aged thirteen who was not exempted from school attendance kept her at home to do the housework in order to enable his wife to go out and earn money. The Court of Queen's Bench held that although the result of keeping the child at home might be that some one else was employed for purposes of gain, such a case was not within the section, which strikes at the direct earning of gain for the employer, and that the proper remedy was to proceed against the parent under §11 for not providing the child with elementary education (*Mather v. Lawrence*, L. R. 1899, Q. B. 1000).

Since the passing of the Elementary Education Act, 1900, proceedings in such a case might, in districts in which the byelaws extend to the age of fourteen, be taken against the parent under the byelaws.

General Definitions.

48. A child in this Act means a child between the ages of five and fourteen years.¹

Terms in this Act shall, so far as is consistent with the tenor thereof, have the same meaning as in The Elementary Education Acts, 1870 and 1873.

The term 'certified efficient school' in this Act means a public elementary school, and any workhouse school² certified to be efficient by the Local Government Board, and any public or state-aided elementary school in Scotland, and any national school in Ireland, and also any elementary

school which is not conducted for private profit, and is open at all reasonable times to the inspection of Her Majesty's Inspectors, and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as may be for the time being required by the Education Department, and is certified by the Education Department to be an efficient school.³

The term 'Factory Acts' in this Act, where the Factory Act of any particular year is not referred to, means *the Factory Acts, 1833 to 1874, as amended by this Act, and includes the Workshop Acts, 1867 to 1871, as amended by this Act, and*⁴ any Acts for the time being in force regulating factories and workshops.

The term 'Secretary of State' means one of Her Majesty's Principal Secretaries of State.⁵

¹ As to the modifications of this provision in the case of blind, deaf, defective, or epileptic children, *see* note 1 to §1 of the Elementary Education (Blind and Deaf Children) Act, 1893 (p. 675), and note 2 to §4 of the Elementary Education (Defective and Epileptic Children) Act, 1899, p. 694.

² As to workhouse schools, *see* p. 343.

³ This paragraph enumerates the various classes of schools included in the expression 'certified efficient school.' For the effect of the definition, *see* especially §5 (2) and §11 of this Act, *supra*, and the definition of 'school' in byelaw 1 of the model form of byelaws (p. 331). Public elementary schools form the most numerous as well as the most important class of schools included in the definition of 'certified efficient schools,' but the term is commonly used to denote especially the class of schools mentioned in the last six lines of the paragraph.

The latest regulations (dated April 1902) of the Board of Education as to the elementary schools which they are prepared to certify as efficient under the latter part of this paragraph, prescribe conditions similar to those which were prescribed by the Day School Code, 1902, for public elementary schools, as regards the responsibility of the managers, inspection, attendance, number of meetings, and efficiency of premises, instruction, discipline, and organisation. The principal provisions of that Code which are not expressly applied to such schools by the regulations are those which were prescribed for public elementary schools by Articles 78 (children not to be refused admission except on grounds deemed reasonable by the Board), 79 (time-table to be approved by the inspector), 80 (school not to be unnecessary), 82 (principal teacher to be certificated), and 89 (accounts and report to be published). The regulations also state that a less number of meetings than the 400 required to be made in a year by Article 83 of the Code will be accepted, if the school is carried on, under an arrangement approved by the Board, with the view of satisfying the requirements of any byelaw passed by a local authority for the instruction of such children as are not required by the byelaws to attend full time.

These schools not being public elementary schools are not required to comply with the provisions of §7 of the Elementary Education Act, 1870, respecting religious instruction (the conscience clause).

Other schools, which by virtue of other provisions in the Elementary Education Acts are included in the expression 'certified efficient school,' are a certified day industrial school (§16 of this Act, *supra*), a school certified by the Board of Education under the Elementary Education (Blind and Deaf Children) Act, 1893 (§7 of that Act, p. 679), and a school certified by the Board under the Elementary Education (Defective and Epileptic Children) Act, 1899 (§5 of that Act, p. 694).

⁴ The words in italics were repealed by the Factory and Workshop Act, 1878.

For the provisions of the Factory Act, 1901, respecting the education and employment of children, *see* pp. 338 to 340.

⁵ The last paragraph of the section was repealed by the Statute Law Revision Act, 1894, a similar definition having been supplied by §12 of the Interpretation Act, 1889.

Provision as to part of a Parish.

49. *A part of a parish which by or in pursuance of the Elementary Education Acts, 1870 and 1873, is constituted a separate school district, shall be deemed to be a separate school district, and so far as necessary a separate parish by itself for the purposes of this Act, and the provisions of those Acts respecting such part of a parish shall apply, and for the purposes of those Acts and this Act, the overseers of the entire parish shall be deemed to be the overseers of such part of a parish, and a rate in the nature of a poor rate may be levied therein by such overseers either as a separate rate or as an addition to the poor rate, and shall be deemed to be the local rate; and the guardians shall for the purposes of this Act have the like power of obtaining payment of a contribution from the said part of a parish as they have of obtaining a contribution from the whole parish.*¹

¹ This section is repealed by the Education Act, 1902.

Construction of this Act with other Enactments.

50. Where any act, neglect, or default is punishable under this Act and also under any other enactment, or any byelaw made by a school board or other local authority for the time being in force, proceedings may be instituted in respect of such act, neglect, or default under this Act or such other enactment or byelaw in the discretion of the authority or person instituting the proceedings, so that proceedings under one enactment or byelaw only be instituted in respect of the same act, neglect, or default; and any byelaw made either before or after the commencement of this Act by any school board or other local authority under section seventy-four of the Elementary Education Act, 1870, if otherwise valid, shall not be rendered invalid by reason that it is more stringent than the provisions of this Act; and nothing in this Act shall prejudice the effect of, or derogate from, any provision relating to the committal of children to industrial schools or the employment of children contained in any previous Act of Parliament which may be more stringent in its provisions than this Act.¹

¹ See note 1 to §5, *supra*, and §4 of the Elementary Education Act, 1880, p. 312.

Temporary Modification as to Application of Act, and saving for Children in Employment at passing of Act.

- 51.** *The provisions of this Act with respect to taking children into employment,*
- (1.) *Shall, during twelve months after the commencement of this Act, apply to children of the age of nine years and upwards as if they were of the age of ten years and upwards; and*
 - (2.) *Shall not apply to any child who has attained the age of eleven years before the commencement of this Act.*
- A child lawfully employed at the passing of this Act may continue to be*

*employed or may obtain fresh employment at another place in like manner as if this Act had not passed.*¹

¹ This and the following section were repealed by the Elementary Education Act, 1880.

Repeal of Acts.

52. *The Acts mentioned in the Fourth Schedule to this Act are hereby repealed as from the commencement of this Act to the extent in the third column of that schedule mentioned.*

*The repeal of any enactment by this Act shall not affect anything previously done or suffered in pursuance of that enactment, and every offence against that enactment may be prosecuted, and any penalty thereunder recovered, and any remedy or legal proceeding for anything done in pursuance of that enactment may be had and carried on in like manner as if this Act had not passed.*¹

¹ See note to §51, *supra*.

PART II.

Application of the Act to Scotland.

53. In the application of this Act to Scotland the following provision shall have effect:

The provisions of this Act with respect to the conditions to be fulfilled by schools in order to obtain an annual parliamentary grant shall apply to Scotland.

SCHEDULES.

FIRST SCHEDULE.

STANDARDS OF PROFICIENCY IN READING, WRITING, AND ELEMENTARY ARITHMETIC, AND PREVIOUS DUE ATTENDANCE AT SCHOOL.

For the purpose of Employment.

(1.) The standard of proficiency in reading, writing, and elementary arithmetic for the purpose of a certificate under this Act enabling a child to be employed, shall be ¹—

(a.) The standard of reading, writing, and elementary arithmetic fixed by standard four of the Code of 1876, or any higher standard.

(2.) The standard of previous due attendance at a certified efficient school for the purpose of a certificate under this Act enabling a child to be employed shall be *two hundred and fifty attendances* after five years of age in not more than two schools during each year for five years, whether consecutive or not.²

(3.) *During the four years next after the commencement of this Act, the standards for the purpose of enabling a child to be employed shall, instead of the foregoing standards, be those shown in the following table:*

During the Year	<i>The Standard of Proficiency shall be the Standard of Reading, Writing, and Arithmetic fixed by the following Standard of the Code of 1876, or any higher standard, namely,—</i>	<i>The Standard of previous due Attendance shall be</i>	
		<i>The following Number of Attendances.</i>	<i>In not more than Two Schools during each Year for the following Number of Years, whether consecutive or not.</i>
1877	Second	250	Two.
1878	Second	250	Two.
1879	Third	250	Three.
1880	Third	250	Four.

Provided that—

- (a) *In the case of a school district, in which for not less than three years before the commencement of this Act, byelaws have been in force requiring, as a condition of total or partial exemption of a child from attendance at school, that such child must have passed a standard of proficiency corresponding to the fourth standard of the Code of 1876 or any higher standard, the same or a corresponding standard of proficiency (but not exceeding the standard which, under this schedule, will be required after four years from the commencement of this Act) shall be required for the purpose of a certificate under this Act enabling a child to be employed.*
- (b) *Where a child has been lawfully taken into employment in any year, in consequence of having obtained a certificate in accordance with the above table, such child may, in any subsequent year, be taken into employment without any further certificate, notwithstanding that under the table a certificate requiring a higher standard is required for that year.³*

For the purpose of the Payment of Fees.

(4.) *The standard of proficiency in reading, writing, and elementary arithmetic for the purpose of a certificate under this Act, with a view to allow of the payment of fees by the Education Department, shall be the standard of reading, writing, and elementary arithmetic fixed by standard four of the Code of 1876 or such higher standard as may be from time to time fixed by the Education Department, and shall include any standard higher than the one fixed by this rule, or than the one for the time being fixed by the Education Department :⁴*

(5.) *The standard of previous due attendance at a public elementary school for the purpose of a certificate under this Act, with a view to allow of the payment of fees by the Education Department, shall be three hundred and fifty attendances after five years of age in not more than two schools during each year for five years, or such larger number of attendances as may be for the time being fixed by the Education Department :⁴*

(6.) *Provided that in each of the four years next after the commencement of this Act the standard of previous due attendance shall, in lieu of the foregoing standard, be that shown in the following table :³*

During the Year.	<i>The Standard of previous due Attendance shall be</i>	
	<i>The following Number of Attendances.</i>	<i>In not more than Two Schools during each Year for the following Number of Years.</i>
1877	350	Two.
1878	350	Two.
1879	350	Three.
1880	350	Four.

(7.) *The Education Department may from time to time by order make, and when made revoke and vary, such regulations and conditions in relation to the payment of fees under this Act by that Department as they may think expedient.*¹

(8.) *The order shall provide that not more than ten per cent. of the children presented for examination in a public elementary school shall obtain in the same year certificates entitling them to the payment of fees, and that if the children qualified to obtain such certificates exceed the said percentage, those children who have attended the greatest number of times shall have the preference.*⁴

(9.) *The order may make the continuance of the payment dependent upon the fulfilment of conditions, and shall provide that the continuance of the payment shall be conditional upon the child attending the school for not less than three hundred and fifty attendances in each year, and obtaining at the end of each year a certificate of proficiency in reading, writing, and elementary arithmetic according to a standard higher than the standard according to which it obtained the previous certificate.*⁴

(10.) *The order shall further provide that the school, by previous due attendance at which the child was qualified for obtaining the payment of fees, and the school, the fees at which are paid by the Education Department, shall be a school or department of a school, at which the ordinary payment in respect of the instruction of each scholar does not exceed sixpence a week.*⁴

Miscellaneous.

(11.) *Attendance for the purpose of this schedule means an attendance as defined by the Code of 1876, and where the attendance is at a certified day industrial school includes such attendance as may be from time to time directed for the purpose by a Secretary of State, and where the attendance is at a workhouse school includes such attendance as may be from time to time directed for the purpose by the Local Government Board.*

(12.) *The Code of 1876 in this schedule means the Code of the Minutes of the Education Department made in the year one thousand eight hundred and seventy-six, with respect to the parliamentary grant to public elementary schools in England, and in the case of a school in Scotland means the Code of the Minutes of the Scotch Education Department made in the year one thousand eight hundred and seventy-six with respect to the parliamentary grant to elementary schools.*

¹ See note 1 to §5 of this Act, *supra*.

² 'Three hundred and fifty' is, by §7 of the Elementary Education Act, 1900, substituted for 'two hundred and fifty' in rule (2). See note 2 to §24 of this Act, *supra*.

³ Rules (3) and (6) were repealed by the Elementary Education Act, 1880.

⁴ Rules (4), (5), (7), (8), (9), and (10), have not been repealed, but they have ceased to be operative, because §18 of this Act, to which they refer, and on which they depend for their meaning, lapsed at the end of the first five years after the commencement of the Act, and was repealed by the Elementary Education Act, 1891, p. 317.

SECOND SCHEDULE.¹

RULES AS TO A LOCAL COMMITTEE.

(1.) *Subject to the provisions of this Act, the school attendance committee may from time to time add to or diminish the number of members, or change the members of any local committee appointed by them, or may dissolve any such committee.*

(2.) *A local committee shall, unless the school attendance committee appointing them otherwise direct, continue in office until the first meeting of that committee after the next annual appointment thereof, and thereafter until a new local committee is appointed.*

RULES AS TO SCHOOL ATTENDANCE COMMITTEE AND LOCAL COMMITTEE.

(3.) *Subject to any regulations made in the case of a school attendance committee by the council or guardians appointing it, and in the case of a local committee by the school attendance committee appointing it, the provisions of the Third Schedule of*

'The Elementary Education Act, 1870,' with reference to proceedings of managers appointed by a school board, shall apply to the proceedings of a school attendance committee and a local committee under this Act, as if the body appointing the committee were a school board.

(4.) *Any casual vacancy in a school attendance committee, or local committee, may be filled up by the body who appointed such committee.*

(5.) *A school attendance committee shall continue in office until the first meeting of the council or guardians appointing it after the next annual election of councillors and guardians, and thereafter until the new committee is appointed.*

(6.) *A committee appointed by guardians shall be appointed at the first meeting after the annual election of guardians, or some other meeting fixed with the approval of the Local Government Board for the purpose.*

¹ This Schedule is repealed by the Education Act, 1902.

THIRD SCHEDULE.¹

RULE AS TO ELECTION OF SCHOOL BOARD.

If any casual vacancy in the office of a member of a school board occurs by death, resignation, disqualification, or otherwise, such vacancy may be filled by the remaining members of the school board, if a quorum, at a special meeting of the board called for the purpose.

¹ This Schedule is repealed by the Education Act, 1902.

FOURTH SCHEDULE.¹

ACTS REPEALED.

<i>Session and Chapter</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
30 & 31 Vict. c. 146.	<i>The Workshop Regulation Act, 1867.</i>	<i>Sections fourteen and fifteen.</i>
33 & 34 Vict. c. 75 .	<i>The Elementary Education Act, 1870.</i>	<i>Section twenty-five, so much of section seventy-four and of any byelaw made thereunder, as is affected by the repeal of section twenty-five, and the rule numbered fifteen in the first part of the second schedule, and the rule numbered six in the third part of the second schedule.</i>
36 & 37 Vict. c. 67 .	<i>The Agricultural Children Act, 1873.</i>	<i>The whole Act.</i>
36 & 37 Vict. c. 86 .	<i>The Elementary Education Act, 1873.</i>	<i>Section three.</i>
37 & 38 Vict. c. 88 .	<i>The Births and Deaths Registration Act, 1874.</i>	<i>Section twenty-nine.</i>

¹ This Schedule was repealed by the Statute Law Revision Act, 1883.

THE ELEMENTARY EDUCATION ACT, 1880.

43 & 44 Victoria, Chap. 23.

AN ACT to make further provision as to byelaws respecting the attendance of Children at School under the Elementary Education Acts. [26th August 1880.]

WHEREAS a school attendance committee within the meaning of the Elementary Education Act, 1876, are authorised to make byelaws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, as if such school attendance committee were a school board, but a school attendance committee for a union cannot make byelaws respecting any parish in their union, except on the requisition of the parish; and it is expedient to make further provision for the making of byelaws respecting the attendance of children at school:

And whereas it is expedient otherwise to amend the Elementary Education Act, 1876, in respect of byelaws:

*Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:*¹

¹ Repealed by the Statute Law Revision Act, 1894.

Short Title and Construction.

1. This Act may be cited as the Elementary Education Act, 1880, and shall be construed as one with the Elementary Education Act, 1876, and that Act and this Act may be cited together as the Elementary Education Acts, 1876 and 1880.¹

¹ The words in italics in this section were repealed by the Statute Law Revision Act, 1894.

Obligation to make Byelaws as to the Attendance of Children at School.

2. It shall be the duty of the local authority (within the meaning of the Elementary Education Act, 1876), of every school district in which byelaws respecting the attendance of children at school under section seventy-four of the Elementary Education Act, 1870, are not at the passing of this Act in force, forthwith to make byelaws under that section for such district.¹

If at any time *after the thirty-first day of December one thousand eight hundred and eighty*² it appears to the Education Department that in any school district there are no byelaws under that section in force, the Education Department may either proceed under section twenty-seven of the Elementary Education Act, 1876 (which relates to a local authority who fail to fulfil their duty under that Act),³ or may make byelaws respecting the attendance of children at school in that district, and the byelaws so made shall have effect and be enforced and be subject to revocation and alteration as if they had been made by the local authority for that district and sanctioned by the Education Department in pursuance of section seventy-four of the Elementary Education Act, 1870: *Provided that where in a school district in which byelaws are not in force a byelaw is made in pursuance of this section, that byelaw shall not prevent a child who, at the date of the byelaw taking effect, is employed in accordance with the Elementary Education Act, 1876, from continuing to be so employed.*²

¹ Previously to the enactment of this section, it was within the discretion of a school board, or of a school attendance committee for a borough, to make or not to make byelaws under §74 of the Elementary Education Act, 1870, and for a parish not under a school board and not in a borough the school attendance committee could only make byelaws on the requisition of the parish.

The effect of this section is that byelaws have been made for every school district.

² The words in italics in this section were repealed by the Statute Law Revision Act, 1894.

³ Schedule III. (9) of the Education Act, 1902, *ante*, provides that a reference to the provisions of that Act relating to the enforcement of the local education authority's duties by mandamus is to be substituted for the reference in this section to §27 of the Elementary Education Act, 1876.

Power of School Attendance Committee to make Byelaws.

3. *The school attendance committee for a union comprising a parish may, in pursuance of section twenty-one of the Elementary Education Act, 1876, without the requisition of the parish, make byelaws under section seventy-four of the Elementary Education Act, 1870, respecting the attendance of children at school.*¹

¹ This section is repealed by the Education Act, 1902.

Enforcing of Byelaws.

4. Every person who takes into his employment a child of the age of ten¹ and under the age of *thirteen*² years resident in a school district, before that child has obtained a certificate of having reached the standard of education fixed by a byelaw in force in the district for the total or partial exemption of children of the like age from the obligation to attend school, shall be deemed to take such child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.³

Proceedings may, in the discretion of the local authority or person instituting the same, be taken for punishing the contravention of a byelaw, notwithstanding that the act or neglect or default alleged as such contraven-

tion constitutes habitual neglect to provide efficient elementary education for a child within the meaning of section eleven of the Elementary Education Act, 1876:⁴ *Provided that nothing in this section shall prevent an employer from employing any child who is employed by him or by any other person at the time of the passing of this Act, and who attends school in accordance with the provisions of the Factory and Workshop Act, 1878.*⁵

¹ There is no express provision in any later enactment raising the age of ten in this section to a higher age. But see §§1 and 2 of the Elementary Education (School Attendance) Act, 1893 p. 323, and §1 of Robson's Act, p. 325, and the notes to those sections.

² The Elementary Education Act, 1900, §6 (1), provides that in this section fourteen years shall be substituted for thirteen years. See the note to that section, p. 329.

³ The effect of this section as amended by §6 (1) of the Elementary Education Act, 1900, appears to be that, in an area where the byelaws do not extend beyond the age of thirteen, a child between thirteen and fourteen years of age cannot legally be employed, even though he may have reached the standard fixed by §5 of the Elementary Education Act, 1876, and the standard fixed by the byelaws for total exemption of children under thirteen years of age.

⁴ See note 1 to §5 of the Elementary Education Act, 1876, and the note on school attendance to §5 of the Education Act, 1902 (p. 40).

⁵ This proviso was repealed by the Statute Law Revision Act, 1894.

Amendment of 39 & 40 Vict. c. 79 s. 40, as to Education being Condition of Relief to Parents of Children.

5. Notwithstanding anything contained in section forty of the Elementary Education Act, 1876, a child shall not, as a condition of the continuance of relief out of the workhouse being continued to him or his parent, be required to attend school further or otherwise than he is required to attend by a byelaw in force under section seventy-four of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1876, and this Act, in the school district in which he is resident: Provided that this section shall not apply where there is no such byelaw in force in the school district.¹

¹ For §40 of the Elementary Education Act, see p. 301.

Repeal.

6. *The Elementary Education Act, 1876, shall be repealed to the extent and from the times in the third column of the Schedule to this Act mentioned, without prejudice to any thing previously done or suffered or any order previously made, or any right or title or liability acquired, accrued or incurred in pursuance of any enactment hereby repealed; and any such thing, order, right, and title and liability may be enforced, and any proceeding then pending for such enforcement may be carried on, as if such enactment had not been repealed.*¹

¹ This section was repealed by the Statute Law Revision Act, 1894.

SCHEDULE.¹

ENACTMENTS REPEALED.

<i>Session and Chapter.</i>	<i>Short Title.</i>	<i>Extent of Repeal.</i>
39 & 40 Vict. c. 79. .	<i>The Elementary Education Act, 1876.</i>	<p><i>In section twenty-one, the words 'may if they think fit' and the words 'on the requisition of the parish, but not otherwise,' as from the passing of this Act.</i></p> <p><i>Section twenty-two, as from the passing of this Act.</i></p> <p><i>Sections fifty-one and fifty-two, as from the passing of this Act.</i></p> <p><i>First Schedule, as from the first of January one thousand eight hundred and eighty-one, from 'During the four years next after' down to 'higher standard required for that year,' both inclusive (being paragraph (3)), and from 'Provided that in each of the four years next after' down to the end of the table, both inclusive (being paragraph 6).</i></p>

¹ This Schedule was repealed by the Statute Law Revision Act, 1894.

THE EDUCATION CODE (1890) ACT, 1890.

53 & 54 Victoria, Chap. 22.

AN ACT for the purpose of making operative certain Articles in the Education Code, 1890. [25th July 1890.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Elementary Education not to be Condition of Grant to Evening Schools.

1. *It shall not be required as a condition of a parliamentary grant to an evening school that elementary education shall be the principal part of the education there given, and so much of the definition of the term 'elementary school' in section three of the Elementary Education Act, 1870, as requires that elementary education shall be the principal part of the education given in an elementary school shall not apply to evening schools.*¹

¹ See note 7 to §2 and §22 (1) and (2) of the Education Act, 1902, *ante*, and the case *R. v. Cockerton* referred to in the note to the definition of 'elementary school' in §3 of the Elementary Education Act, 1870 (p. 197).

Provisions as to Special Grants to Schools.

2.—(1.) Where the population of the school district in which a public elementary school is situate, or the population within two miles measured according to the nearest road from the school, is less than five hundred, and there is no other public elementary school recognised by the Education Department as available for the children of that district or that population (as the case may be), a special parliamentary grant may be made annually to that school to the amount of ten pounds.¹

(2.) The said special grant shall be in addition to the ordinary annual parliamentary grant, and in addition to any special parliamentary grant made under section nineteen of the Elementary Education Act, 1876, and shall not be included in the calculation of the ordinary annual parliamentary grant for the purpose of determining whether it does or does not exceed any maximum fixed by law.²

(3.) Provided that no school shall be entitled to receive a special grant under this section unless it satisfies the conditions contained in the minutes of the Education Department in force for the time being with regard to special grants under this section.³

¹ Schedule III. (1) of the Education Act, 1902, provides that in this sub-section references to a school district shall, as respects the area of a local education authority being the council of a county, be construed as references to a parish.

The effect of this provision will be to make the grant payable in the case of a school which, though situated in a parish within the limit of population specified, was nevertheless excluded previously from receiving the grant, owing to the parish forming part of a united school district the population of which exceeded that limit. See also notes 3 and 4 to §19 of the Elementary Education Act, 1876 (p. 292).

² This provision has ceased to be operative since the repeal of the 'seventeen-and-sixpenny limit' (p. 709).

³ The conditions respecting the payment of this grant are those contained in Article 105 of the Day School Code (p. 591).

Short Titles.

3.—(1.) This Act may be cited as the Education Code (1890) Act, 1890.

(2.) The Elementary Education Acts, 1870 to 1876, and the Elementary Education Act, 1880, and this Act may be cited collectively as the Elementary Education Acts, 1870 to 1890.

THE ELEMENTARY EDUCATION ACT, 1891.

54 and 55 Victoria, Chap. 56.

AN ACT to make further provision for assisting Education in Public Elementary Schools in England and Wales.

[5th August 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Fee Grant and Conditions thereof.

1.—(1.) After the commencement of this Act,¹ there shall be paid, out of moneys provided by Parliament, and at such times and in such manner as may be determined by regulations of the Education Department,² a grant (in this Act called a fee grant) in aid of the cost of elementary education in England and Wales at the rate of ten shillings a year for each child of the number of children over three and under fifteen years of age in average attendance³ at any public elementary school⁴ in England and Wales (not being an evening school) the managers of which are willing to receive the same, and in which the Education Department are satisfied that the regulations as to fees are in accordance with the conditions in this Act.

(2.) If in any case there is a failure to comply with any of the conditions in this Act, and the Education Department are satisfied that there was a reasonable excuse for the failure, the Department may pay the fee grant, but in that case shall, if the amount received from fees has exceeded the amount allowed by this Act, make a deduction from the fee grant equal to that excess.

(3.) For the purposes of section nineteen of the Elementary Education Act, 1876, the fee grant paid or payable to a school shall be reckoned as school pence to be met by the grant payable by the Education Department.⁵

¹ This Act has sometimes been called the Assisted Education Act, but is more widely known under the name of the Free Education Act. Its effect may be stated in general terms to have been (a) to make the great majority of public elementary schools free schools; (b) to reduce materially the fees in the majority of the remainder; and (c) to place free public elementary education within the reach of all children for whom it is desired.

The principal provisions of the Act were as follows:—A grant (the 'fee grant') at the rate of ten shillings per unit of average attendance of children over three and under

fifteen years of age (*see* §10, p. 322, §1 of the Elementary Education Act, 1900, p. 327, and Article 14 of the Day School Code, p. 572) was offered to all public elementary day schools on the following conditions. First, a 'determining year' was taken. This year, in the case of any school, was the last 'school year' (*see* §10) ending before the 1st January 1891, and the average rate of fees received during that year was ascertained by calculation. Where this rate was not in excess of ten shillings, the managers, if they accepted the fee grant, were precluded from charging fees in future, for children over three and under fifteen years of age, and where it exceeded ten shillings, the managers were limited, as regards the average rate of fees to be charged in future to children between these ages, to this excess (for note as to charges for books, etc., *see* §3, *infra*). Further, the definition of 'public school accommodation' (§5 of the Elementary Education Act, 1870) was extended so as to include public school accommodation without payment of fees, and it was provided (§5) that if and wherever, after the 1st September 1892, the Education Department (now the Board of Education) were satisfied that there was in any school district or any part of a school district an insufficient amount of such accommodation, the machinery provided by the Elementary Education Act, 1870, for the compulsory provision of public school accommodation might, if necessary, be made operative.

It was also provided (§4, p. 320), that in districts in which there was a sufficient amount of public school accommodation without payment of fees, particular schools might, in exceptional circumstances, still continue to charge fees not exceeding sixpence a week, and yet receive the fee grant or a portion of it.

Under the Education Act, 1902, the question whether fees should still continue to be charged by those schools which are entitled to charge them at the present time will be one for the local education authority acting under Part III. of that Act; but it is expressly provided in §14 of the Act that, where before the passing of the Act fees have been charged in any public elementary school not provided by the local education authority, that authority shall, while they continue to allow fees to be charged in respect of that school, pay such proportion of those fees as may be agreed upon, or, in default of agreement, determined by the Board of Education, to the managers. The proportion of the fees thus paid to the managers will be applicable by them to those purposes for which, under that Act, provision is to be made by the managers, that is to say, to the provision of the schoolhouse, to its maintenance in good repair, and to the making of such alterations and improvements of it as may be reasonably required by the local education authority.

During the ten years which have passed since the date at which all the provisions of the Elementary Education Act, 1891, came into operation the number of fee-charging schools has steadily diminished. According to the last published statistics of the Board of Education, there are, out of a total of 20,116 schools, only 2,659 in which fees are charged to any of the children over three and under fifteen years of age, and, out of a total of 5,760,659 children, only 644,275 pay fees at all, and only 141,756 of these pay fees of as much as threepence a week.

² The regulations of the Board of Education as to the time and manner of the payment of fee grant provide for the payment of the grant by quarterly instalments, the first three instalments being calculated on the average attendance of the previous year, and the fourth, or final payment, being made with the annual grant, when the average attendance for the year for which the fee grant is being paid, and the amount of fee grant which, with the quarterly instalments already paid, will make up the total amount due for the year, have been ascertained.

As to the payment of these instalments at an earlier date than usual with the view of meeting the initial financial difficulty in the administration of the Education Act, 1902, *see* note 8 to §18 of that Act.

³ *See* §10 of this Act, and the note to §1 of the Elementary Education Act, 1900 (p. 327).

⁴ These words limit the payment of fee grant to schools which fulfil the conditions of the receipt of an annual grant under the Day School Code. The words 'over three and

'under fifteen years of age' prevent the payment of fee grant in respect of the attendances of children remaining beyond the last-mentioned age in a public elementary school under the Education Act, 1902, §22 (2), notwithstanding the provisions of the Elementary Education Act, 1900, §1.

⁵ Section 19 of the Elementary Education Act, 1876, having been repealed as regards day schools by §2 of the Voluntary Schools Act, 1897, this sub-section has now no effect.

Limits of Fees in Schools receiving Fee Grant.

2.—(1.) In any school receiving the fee grant—

(a) Where the average rate of fees received during the school year ended last before the first day of January one thousand eight hundred and ninety-one was not in excess of ten shillings a year for each child of the number of children in average attendance at the school; or

(b) For which an annual parliamentary grant has not fallen due before the said first day of January;

no fee shall, except as by this Act provided, be charged for children over three and under fifteen years of age.¹

(2.) In any school receiving the fee grant where the said average rate was so in excess, the fees to be charged for children over three and under fifteen years of age shall not, except as by this Act provided, be such as to make the average rate of fees for all such children exceed for any school year the amount of the said excess.²

¹ This sub-section prohibits the charging of fees for children within the age-limits mentioned, where the fee grant is accepted,

(a) in existing schools, in which the average rate of fees in the 'determining year' (*see note to §1 (1) supra*) was not in excess of ten shillings a year;

(b) in all new schools.

The words 'except as by this Act provided' refer to the exceptional cases in which a fee is allowed to be charged under §4 of the Act (p. 320).

² The Board of Education have stated that they are advised that in Section 2 (2) of the Elementary Education Act of 1891 the fee 'to be charged' means the actual amount which may be received, and that managers would not be justified in charging more, even if they undertook to return the surplus to the children on their fulfilling certain conditions as to attendance.

Prohibition of Charges in certain Schools receiving Fee Grant.

3. In any school receiving the fee grant, where the average rate charged and received in respect of fees and books, and for other purposes, during the school year ended last before the first day of January one thousand eight hundred and ninety-one, was not in excess of ten shillings a year for each child of the number of children in average attendance at the school, no charge of any kind shall be made for any child over three and under fifteen years of age.¹

¹ In certain schools in the 'determining year' payments for books or other apparatus of elementary instruction were required in addition to the fee proper. Where the fee proper and these payments combined worked out at an 'average rate' not exceeding ten shillings, the Act forbade the making of a charge of any kind in future for children within the age-limits mentioned in any school the managers of which had accepted

the fee grant. Where the average rate, including these payments for books, etc., exceeded ten shillings, the payments might still continue to be made, but the Board of Education hold that 'the managers of all schools, whether they are free schools or not, are bound to provide a proper supply of books, slates and other school apparatus, and cannot compel a parent to provide books either by periodical payment or by purchase, nor can they refuse admission to a child whose parent refuses to provide them. But if a parent prefers to buy school books outright, so that they may remain the property of the child, there is nothing to prevent his buying them from the managers, or the managers selling them to him, as a purely voluntary arrangement, and a matter of mutual convenience.'

Power to modify limit of Fees in certain Cases.¹

4.—(1.) Notwithstanding anything herein-before contained, the Education Department, if they are satisfied that sufficient public school accommodation, without payment of fees, has been provided for a school district, and that the charge of school fees or the increase of school fees for children over three and under fifteen years of age in any particular school receiving the fee grant is required owing to a change of population in the district, or will be for the educational benefit of the district, or any part of the district, may from time to time approve such charge or increase of fees in that school, provided that the ordinary fee for such children shall not exceed sixpence a week.

(2.) The Education Department shall report annually to Parliament all cases in which they have sanctioned or refused the imposition or augmentation of fees under this section, with a statement of the amount of fee permitted.

(3.) The Education Department may, if they think fit, make it an express condition of such approval that the amount received for any school year from the fees so charged or increased, or a specified portion of that amount, shall be taken in reduction of the fee grant which would otherwise have been payable for that school year, and in that case the fee grant shall be reduced accordingly.

¹ It was thought that it might be expedient that certain schools (*e.g.* schools in which an education going considerably beyond the minimum requirements of the Code was given) should still, in exceptional circumstances, be allowed to charge fees up to sixpence a week, even though under §§1 to 3 of the Act they would have been entitled to charge either no fees, or very low fees. This section is intended to meet these cases.

Advantage has also been taken of the section to meet two special kinds of cases in which a strict compliance with the conditions of §§1 to 3 would have caused hardship.

(i.) Where the 'average rate' of fees charged and received in the 'determining year' was abnormally low, owing to the temporary closure of the school on account of an epidemic, sanction was given to fees being charged for the future at the rate which the managers would have been entitled to adopt under §2 (2), had the 'determining year' been a normal one.

(ii.) In the case of schools where, under §§1 to 3 of the Act, no fee might be charged, and the provision of additional teaching staff, or even additional accommodation, would have been necessary to meet the requirements of children, from other school districts or unions, resident in a work-house or cottage homes, the guardians were formerly not legally able to contribute directly to the additional provision required. The Board of Education therefore sanctioned, under this section, the imposition of a fee

which the guardians were required to pay as a condition of the admission of these children to the school. In view however of §2 of the Elementary Education Act, 1900 (p. 327), which legalises direct contributions by guardians, recourse to the provisions of this section seems to be no longer necessary.

Provision for Free School Accommodation.

5. *If at any time after the expiration of one year from the commencement of this Act it is represented to the Education Department that there is in any school district, or any part of a school district, an insufficient amount of public school accommodation without payment of fees for children over three and under fifteen years of age, for whom such accommodation is desired, and the Education Department are satisfied after inquiry that such is the case, the Department shall direct the deficiency to be supplied in the manner provided by sections nine and ten of the Elementary Education Act, 1870, and every other section enabling them in that behalf, with respect to the supply of public school accommodation; and the expression 'public school accommodation' in that Act shall include public school accommodation without payment of fees.*¹

Provided that whenever and so long as any deficiency in such last-mentioned public school accommodation in any district is in course of being supplied with due despatch, no requisition or order shall be issued in that behalf by the Education Department.

¹ See Schedule III. (5) to the Education Act, 1902, *ante*, and the note thereon.

Power to contribute from Fee Grant to Common School Fund.

6. *The managers of two or more public elementary schools in the same or neighbouring school districts, not being schools provided by a school board, may pay the fee grant, or part thereof, received by each school into a common fund for distribution, as may be arranged by them, between or among such schools.*

*Provided that the fee grant received by each school in the first instance shall alone count as income of such school for the purposes of this Act and of section nineteen of the Elementary Education Act, 1876, and a contribution to a school from any such common fund shall not be reckoned as income of such school from other sources within the said section nineteen.*¹

¹ This and the following section are repealed by the Education Act, 1902. Under §18 (2) of that Act the fee grant paid in respect of any school maintained by a local education authority will be paid to that authority.

Grouping of Schools.

7. *Where the managers of two or more public elementary schools in the same or neighbouring school districts agree to associate and elect a committee for the schools, any surplus income on the accounts for the school year of any of the associated schools may be paid into a common fund, out of which contributions may be made to any of the other associated schools; but the contributions received by any such school shall not be counted as income from other sources for the purpose of section nineteen of the Elementary Education Act, 1876, so that no addition to the public charge may result from this section taken in conjunction with the said section*

nineteen. *Provided that no board school shall under this section be associated with any public elementary school other than a board school.*¹

¹ See the note to §6.

Explanation of 33 & 34 Vict. c. 75. s. 17.

8. Nothing in section seventeen of the Elementary Education Act, 1870, shall prevent a school board from admitting scholars to any school provided by the board without requiring any fee.

Provision for Equality of Treatment.

9. Nothing in this Act shall give any preference or advantage to any school on the ground that it is or is not provided by a school board.

Meaning of 'School Year' and 'Average Attendance.'

10. In this Act the expression 'school year'¹ shall mean a year or other period for which an annual parliamentary grant is for the time being paid or payable under the minutes of the Education Department; and the expression 'average attendance' shall, for the purposes of the fee grant, mean average attendance calculated in accordance with the minutes in force at the commencement of this Act.²

¹ This definition of 'school year' corresponds with that given in the Day School Code (Article 20), p. 573.

² The words in italics are repealed by §8 of the Elementary Education Act, 1900, and replaced by §1 of that Act. See the note to that section, p. 327.

Repeal.

11. The Acts mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

Commencement of Act.

12. This Act shall come into operation on the first day of September one thousand eight hundred and ninety-one.

Short Title and Construction.

13.—(1.) This Act may be cited as the Elementary Education Act, 1891, and shall be construed as one with the Elementary Education Acts, 1870 to 1890.

(2.) The Elementary Education Acts, 1870 to 1890, and this Act may be cited collectively as the Elementary Education Acts, 1870 to 1891.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75 .	The Elementary Education Act, 1870.	Section twenty-six.
39 & 40 Vict. c. 79 .	The Elementary Education Act, 1876.	Section eighteen.

THE ELEMENTARY EDUCATION (SCHOOL ATTENDANCE) ACT, 1893.

56 & 57 Victoria, Chap. 51.

AN ACT to amend the Elementary Education Acts with respect to the age for attendance at School.

[22nd September 1893.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Age for Exemption from School Attendance.

1. The age at which a child may, in pursuance of any byelaw made under the Elementary Education Acts, 1870 to 1891, obtain total or partial exemption from the obligation to attend school, on obtaining a certificate as to the standard of examination which he has reached, shall be raised to eleven, and every such byelaw, so far as it provides for such exemption, shall be construed and have effect as if a reference to eleven years of age were substituted therein for a reference to a lower age, and in section seventy-four of the Elementary Education Act, 1870, eleven shall be substituted for ten.¹

¹ The effect of this section was to raise the age named in the byelaws for total or partial exemption to eleven without the local authority being required to make fresh byelaws for the purpose.

The age was further raised to twelve by Robson's Act, 1899 (p. 325), subject to the possibility of an exception being made in the case of children to be employed in agriculture.

Penalty for Employment of Children before exemption from School Attendance.

2. If any person takes a child into his employment in such manner as to prevent the child from attending school in accordance with the byelaws for the time being in force in the district in which the child resides, he shall be deemed to take the child into his employment in contravention of

the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.¹

¹ The provisions of this section are analogous to those of §5 of the Elementary Education Act, 1876, and §4 of the Elementary Education Act, 1880, but in view of the fact that there is no express provision substituting any higher age for the age of ten years mentioned in those sections, it is generally more convenient to institute proceedings under this section.

It would appear that the exceptions of §9 of the Elementary Education Act, 1876, do not apply to the prohibitions of this section.

The Interdepartmental Committee on the Employment of School Children (1901), included in their Report the following passage on this section :—

‘It has been suggested that the employment of a child out of school hours in such a way as to unfit it for doing its work in school is a breach of this provision, but the point has never been raised for judicial decision. The more correct legal opinion seems to be that it is only by employing a child during the hours when he ought to be at school that the law is broken.’

A Bill introduced by the Secretary of State is now (1903) before Parliament, which proposes, *inter alia*, to empower the council of any county or borough to make byelaws prescribing, for children under fourteen years of age, the age below which employment is illegal, the hours between which employment is illegal, and the number of daily or weekly hours beyond which employment is illegal.

Saving.

3. Nothing in this Act shall apply in the case of any child who at the passing of this Act is under the byelaws then in force in the district in which he resides exempt wholly or partially, as the case may be, from the obligation to attend school.

Commencement of Act.

4. This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

Short Title.

5. This Act may be cited as the Elementary Education (School Attendance) Act, 1893, and shall be read with the Elementary Education Acts, 1870 to 1891.

THE ELEMENTARY EDUCATION (SCHOOL ATTENDANCE) ACT (1893) AMENDMENT ACT, 1899.

62 & 63 Victoria, Chap. 13.

AN ACT to amend the Law respecting the Employment
and Education of Young Children. [13th July 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Amendment of 56 & 57 Vict. c. 51.

1. On and after the first day of January one thousand nine hundred the Elementary Education (School Attendance) Act, 1893, shall have effect as if 'twelve' were substituted therein for 'eleven.'¹

Provided that nothing in this Act shall apply in the case of any child who at the said date is, under the byelaws then in force in the school district in which he resides, exempt, wholly or partially, as the case may be, from the obligation to attend school.

Provided also that the local authority for any district may, by byelaw for any parish within their district, fix thirteen years as the minimum age for exemption from school attendance in the case of children to be employed in agriculture, and that in such parish such children over eleven and under thirteen years of age who have passed the standard fixed for partial exemption from school attendance by the byelaws of the local authority shall not be required to attend school more than two hundred and fifty times in any year.²

Such byelaw shall have effect as a byelaw made under section seventy-four of the Elementary Education Act, 1870, and all Acts amending the same.

The local authority shall be the local authority fixed by section seven of the Elementary Education Act, 1876.

Provided also that a child shall be entitled to obtain partial exemption from school attendance on attaining the age of twelve years if such child

has made three hundred attendances in not more than two schools during each year for five preceding years whether consecutive or not.³

¹ This provision operated automatically in the case of all byelaws in which provision was made for total or partial exemption upon a certificate of having reached a specified standard, in the same manner as §1 of the Elementary Education (School Attendance) Act, 1893 (p. 323).

² See Byelaw 5 (c) in the model form of byelaws (p. 333).

It will be observed that when an 'agricultural' byelaw is adopted under this provision, children attending school and employed in agriculture thereunder are not entitled to leave school till they reach the age of thirteen.

³ The Board of Education have stated that they 'are advised that the partial exemption which the child is entitled to obtain under this proviso is partial exemption as defined by the byelaws in force in the district in which such child resides, and is subject to such conditions as to employment as those byelaws may contain.'

The Board have, however, further stated that they are not aware that the proviso imposes any obligation to introduce a partial exemption byelaw where such byelaw was not previously in force; and, even in cases where a local authority, in altering their byelaws, propose to omit therefrom such provision as had been previously made for partial exemption, the Board do not decline to approve the new byelaws on the ground of such omission, but they warn the local authority that they must be prepared to amend their byelaws should a competent tribunal hereafter decide that the effect of the proviso is to render it obligatory to make provision for partial exemption in all districts.

Short Title and Construction.

2. This Act may be cited as the Elementary Education (School Attendance) Act (1893) Amendment Act, 1899,¹ and shall be read with the Elementary Education Acts, 1870 to 1897.

¹ This Act is commonly referred to by the title of Robson's Act, instead of by the 'short title' given to it by this section.

THE ELEMENTARY EDUCATION ACT, 1900.

63 & 64 Victoria, Chap. 53.

AN ACT to amend the Elementary Education Acts, 1870 to 1893. [8th August 1900.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Calculation of Average Attendance.

1. For the purpose of the fee grant under the Elementary Education Act, 1891, average attendance shall be calculated in accordance with the minutes of the Board of Education in force for the time being in respect to public elementary schools.¹

¹ Section 10 of the Elementary Education Act, 1891, provided that the expression 'average attendance' should, for the purposes of the fee grant, mean average attendance calculated in accordance with the minutes in force at the commencement of that Act. Inasmuch as the definition of 'attendance' in the Day School Code, upon which the calculation of average attendance depends, has been changed since 1891, the annual grant and the fee grant have been payable on different average attendances, and the object of this section was to make the same average attendance applicable for the purposes of both grants. The fee grant cannot however be paid on any attendances made by children over the age of fifteen, and the Code of 1902 gave notice that from and after the 1st April, 1903, no attendance would be reckoned for any scholar under three or over fifteen years of age, or for any scholar while habitually employed as a monitor. This form of words has been followed in Article 13 of the Code (p. 572), as presented to Parliament for 1903, and the annual and fee grants will therefore in future be paid upon the same average attendance. Section 22 (2) of the Education Act, 1902, extends the limit of age of scholars for whom instruction may be provided under the Elementary Education Acts, 1870 to 1900, in a public elementary school, but this provision will not affect the grant, which is governed by the Code.

Power of Guardians to Contribute to Expenses of Public Elementary School.

2. The board of guardians of any poor law union may contribute towards such of the expenses of providing, enlarging, or maintaining, any public elementary school as are certified by the Board of Education to have been incurred wholly or partly in respect of scholars taught at the school, who are either resident in a workhouse or in an institution to which they

have been sent by the guardians from a workhouse, or boarded out by the guardians.¹

¹ Prior to the passing of this Act, the only method by which the guardians could be enabled legally to contribute towards the expenses of a school, in which, under §§1 to 3 of the Elementary Education Act, 1891, no fees might be charged, attended by children from a workhouse or other institution to which they had been sent by the guardians, or by children boarded out by the guardians, was for the managers to obtain the sanction of the Board of Education, under §4 of that Act (p. 320), to the imposition of a fee to be paid by the guardians for such children as a condition of their admission to the school.

The guardians are now authorised to contribute directly, subject to the provisions of this section, towards the expenses of providing, enlarging, or maintaining a school attended by such children.

The Board of Education have stated that while they are in favour, in principle, of the education of such children in an ordinary public elementary school, they do not consider that the ratepayers of the school district in which the school so attended is situated are under an obligation to incur any additional expenditure on account of the provision or maintenance of school accommodation for such children, and they do not consider it unreasonable (Article 78 of the Day School Code, p. 583) on the part of the managers to refuse to admit them till the guardians have undertaken to contribute.

The Board of Education have stated that they cannot undertake to settle the amount of contribution, which should be settled between the guardians and the school managers.

The Board of Education confine themselves to giving the certificate required by the section, and the maximum amount which the Board are prepared to certify in respect of *maintenance* must not exceed the net annual expenditure divided by the total number of children in average attendance, the quotient being multiplied by the average attendance of the children sent by the guardians. By 'net annual expenditure' is here meant the total annual expenditure less the amount of the annual and fee grants received during the year.

The amount certified in respect of *provision* of school accommodation would vary with the circumstances of each case.

Expenses of Blind and Deaf Children.

3. *A parish in which there is a school board shall be exempt from contributing to the expenses incurred by any district council acting as a school authority under the Elementary Education (Blind and Deaf Children) Act, 1893, and where the school authority are an urban district council their expenses as such authority shall be paid out of a fund to be raised in the area for which they are the school authority, in the same manner as the fund out of which their general expenses are payable is raised in the urban district.*¹

¹ Prior to the passing of this Act a parish in which there was a school board, besides having to bear the whole of the expense which might be thrown upon the school board by the provisions of the Elementary Education (Blind and Deaf Children) Act, 1893, was also liable to contribute towards the expenses incurred by the council of the district in which it was comprised.

This anomaly was remedied by the provisions of this section.

The section is repealed by the Education Act, 1902, which makes provision with respect to expenditure incurred for the purpose of the Act of 1893 in §18 (1) and Schedule II. (7).

Expenses of Children in Industrial Schools.

4.—(1.) Where a child is committed to a certified industrial school, at the instance of a school board or other local authority within the meaning

of the Elementary Education Acts, 1870 to 1893, the authority may pay the expenses of and incidental to the conveyance of the child to and from the school, and the sending of the child out on licence or bringing back the child on the expiration or revocation of a licence.

(2.) Where any such local authority have contributed to the support of a child in an industrial school they may contribute to the ultimate disposal of the child.¹

¹ See Appendix to the Elementary Education (Industrial Schools) Act, 1879 (p. 741).

Accounts relating to Joint Industrial Schools.

5. Where two or more school boards combine for the establishment of a joint industrial school under a joint body of managers, the enactments relating to the audit of school board accounts shall apply as if the joint body of managers were a school board.¹

¹ This section, and §52 of the Elementary Education Act, 1870, are not repealed by the Education Act, 1902, and in cases to which the section applies the combination agreement will still continue in force till dissolved by the local education authorities to whom the powers of the respective school boards are transferred, subject to such adjustment as may be necessary in consequence of any change effected by the Act.

Byelaws for Compulsory Attendance.

6.—(1.) In section seventy-four of the Elementary Education Act, 1870, and in section four of the Elementary Education Act, 1880 (which relate to byelaws for the attendance of children at school), fourteen years shall be substituted for thirteen years.¹

(2.) The maximum penalty for the breach of a byelaw requiring the attendance of a child at an elementary school, or of an attendance order made under the Elementary Education Act, 1876, shall be twenty shillings, and accordingly twenty shillings shall be substituted for five shillings in section seventy-four of the Elementary Education Act, 1870, and in section twelve of the Elementary Education Act, 1876.

(3.) The said section seventy-four shall have effect as if the sanction therein referred to were the sanction of the Board of Education instead of the sanction of Her Majesty in Council.

¹ This provision did not make it obligatory on school boards and school attendance committees to raise the age to which byelaws applied from thirteen to fourteen. In cases, however, in which the byelaws only extend to some age less than fourteen the statutory obligation on the parent continues until the child reaches the age of fourteen under §§4 and 48 of the Elementary Education Act, 1876, and the child may not be employed (§5 of the last-mentioned Act) until he has obtained the certificate of proficiency, or of previous due attendance (*see* §7, *infra*) required by that Act. The law of school attendance is therefore simplified and rendered more effective by raising the byelaw age to fourteen. Between the passing of the Elementary Education Act, 1900, and the date at which the Annual Report of the Board of Education for the year 1901-2 was compiled new byelaws had been sanctioned by the Board in the case of 1732 local authorities, of which 1567 had raised the age to fourteen.

For the model form of byelaws, *see* the Appendix to this Act, *infra*, p. 331.

Amendment of 39 & 40 Vict. c. 79, as to Standard of Attendances.

7. In paragraph two of the First Schedule to the Elementary Education Act, 1876 (which relates to the standard of previous due attendance at a certified efficient school), three hundred and fifty shall be substituted for two hundred and fifty.¹

¹ See School Attendance Certificate in Schedule VI. of the Revised Regulations of the 21st March 1901 (p. 348). See also §5 of the Elementary Education Act, 1876 p. 280), and Schedule I. of that Act (p. 307).

Repeal.

8. The Acts mentioned in the schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Short Title.

9. This Act may be cited as the Elementary Education Act, 1900, and may be cited with the Elementary Education Acts, 1870 to 1893.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
54 & 55 Vict. c. 56.	The Elementary Education Act, 1891.	Section ten, from 'and the expression' to the end of the section.
56 & 57 Vict. c. 42.	The Elementary Education (Blind and Deaf Children) Act, 1893.	Section four, from 'and until' to the end of the section. Section five, from 'or where the 'school authority' to 'value of each 'parish.'

APPENDIX TO THE ELEMENTARY EDUCATION ACT, 1900.

SCHOOL ATTENDANCE.*

CONTENTS OF THIS APPENDIX.†

- I. Model Form of Byelaws (p. 331).
- II. Extract from Report of Board of Education (p. 336).
- III. References to Sections of Elementary Education Acts, relating to School Attendance (p. 337).
- IV. Extracts from Factory and Workshop Act, 1901, and Canal Boats Act, 1877 (p. 338).
- V. Revised Regulations as to Certificates (p. 341).

I. *Model Form of Byelaws.*

The following was the model form of byelaws issued by the Board of Education for use by a local authority under the Elementary Education Act, 1876, that is to say, by a school board or school attendance committee.

BYELAWS¹

MADE UNDER

Section 74 of the Elementary Education Act, 1870, as amended by the Elementary Education Acts, 1876, 1880, 1893, 1899 and 1900,

FOR THE

[Insert the name of the district to which it is intended that the proposed byelaws shall relate.]

BY THE

[Insert the name of the school board or school attendance committee making the proposed byelaws.]

Definitions.

1. In these Byelaws

The term 'district'² means

[Insert the name of the district to which it is intended that the proposed byelaws shall relate.]

The term 'child' means a child residing in the district.

The term 'school' means a certified efficient school.³

'Attendance' means an attendance at a morning or afternoon meeting of the school.

The Code 'for the time being' means the Code of Minutes of the Board of Education in force for the time being with respect to the Parliamentary Grant to Public Elementary Schools in England.⁴

The term 'Local Authority' means the Local Authority for the district acting for the time being under the Elementary Education Act, 1876.⁵

* The provisions of the Factory and Workshop Act, 1901, and of the Canal Boats Act, 1877, respecting the employment or education of children are given on pp. 338 to 341. For other special provisions prohibiting or regulating employment, see

The Coal Mines Regulation Act, 1887 (50 & 51 Vict. c. 58), §§4 to 10.

The Mines (Prohibition of Child Labour Underground) Act, 1900 (63 & 64 Vict. c. 21).

The Metalliferous Mines Regulation Acts, 1872 and 1875.

The Merchant Shipping (Fishing Boats) Acts, 1883 and 1887.

The Prevention of Cruelty to Children Act, 1894.

The Shop Hours Act, 1892 (55 & 56 Vict. c. 62).

These statutes, as will be understood from their titles, generally have reference to some special industry, and their prohibitions and regulations do not affect the general law of education.

See also the note (p. 324) to §2 of the Elementary Education (School Attendance) Act, 1898.

† In this Appendix no reference is made to the exceptional cases of blind or deaf, or defective or epileptic, children. As to the attendance at school of such children, see the Elementary Education (Blind and Deaf Children) Act, 1893, and the Elementary Education (Defective and Epileptic Children) Act, 1899 (pp. 675 to 705), and the notes thereon, especially on §§1 and 11 of the former, and §§4 and 11 of the latter Act.

Children to attend School.

2. The parent⁶ of every child of not less than 5, nor more than 14⁷ years of age, shall cause such child to attend school, unless there be a reasonable excuse⁸ for non-attendance.

Reasonable Excuses.

Any of the following reasons shall be a reasonable excuse, namely :—

- (a) That the child is under efficient instruction in some other manner.
- (b) That the child has been prevented from attending school by sickness or any unavoidable cause.
- (c) That there is no Public Elementary School open which the child can attend within _____ miles, measured according to the _____ [Insert a number not greater than three.] nearest road from the residence of such child.

Time of Attendance.

3. The time during which every child shall attend school shall be the whole time for which the school selected shall be open for the instruction of children of similar age.

Proviso as to Religion and Labour Acts.

4. Provided always that nothing in these Byelaws⁹—

- (a) Shall prevent the withdrawal of any child from any religious observance or instruction in religious subjects ;
- (b) Shall require any child to attend school on any day exclusively set apart for religious observance by the religious body to which its parent belongs ; or
- (c) Shall have any force or effect in so far as it may be contrary to anything contained in any Act for regulating the education of children employed in labour.

Proviso as to Total Exemption.

5. And provided always that¹⁰—

- (a) A child between twelve and fourteen years of age shall not be required to attend school if such child has received a certificate from one of His Majesty's Inspectors of Schools that it has reached the _____ Standard prescribed by _____ [Insert a Standard which should not be lower than the Fifth.] the Code for the time being.¹¹

Proviso as to Partial Exemption for purposes of employment.

- (b) When a child between twelve and fourteen years of age, being beneficially employed to the satisfaction of the local authority, has either (i) received a certificate from one of His Majesty's Inspectors of Schools that it has reached the* Standard prescribed by the Code for the time being ; * Here insert a Standard lower than that in 5 (a), but which should be not lower than the Fourth.
 - or (ii) obtained a certificate that it has made 300 attendances in not more than two schools in each year for five preceding years whether consecutive or not,

such child may,

- (x) while regularly making five attendances in each week in which the school is open, be exempt from further attendance at school,

or may,

(y) after having completed †
 during a period from †
 , or subsequent thereto, be exempt
 from further attendances until §
 next ensuing.¹²

attendances
 to

† Here insert a number
 not less than 200.

‡ Here specify the period
 during which partially ex-
 empted children are to
 attend school.

§ Here insert the com-
 mencing date of the period
 before mentioned.

NOTE.—The attendances under this last subsection (y) may be required to be fulfilled in two or more distinct periods; in that case the periods, and the number of attendances to be made within each period, must be separately specified; and the exemption must be until the commencement of the next succeeding period.

Paragraphs (x) and (y) may be treated as alternatives, or both of them may be included in the byelaw.

Special Byelaw for children to be employed in agriculture. 62 & 63 Vic. c. 13.

(c) *The parent of any child, may, at any time after such child is 11 years of age, and has passed the*¹³ *Standard, give notice* [Here insert the same Standard as in 5 (b) above.] *to the local authority that such child is to be employed in agriculture.*

*The minimum age for exemption from school attendance for such child shall be 13.*¹⁴

Such child while between the ages of 11 and 13 shall attend school 250 times in the year namely

[Here set out the period
 or periods within which
 the attendances are to be
 made.]

Any such child, so soon as it shall have made the number of attendances required
{ for any one of the periods } above mentioned, shall whilst employed in agriculture
{ for the period } above mentioned, shall whilst employed in agriculture
be exempt from further obligation to attend school until the { *end of the year.*
next succeeding period
above mentioned.

A certificate from the head teacher of a school that such child has made the attendances required by this byelaw, together with the production of the labour certificate, shall be sufficient evidence to justify the employment in agriculture of such child.

Penalty.

6. Every parent who shall not observe, or shall neglect or violate these byelaws, or any of them, shall, upon conviction, be liable to a penalty not exceeding, with the costs, twenty shillings for each offence.¹⁵

Revocation.

7. *Any byelaws heretofore made under Section 74 of the Elementary Education Act, 1870, or under that section as amended by the Elementary Education Acts, 1876, 1880, 1893, 1899 and 1900, are hereby revoked, as from the day on which the present byelaws shall come into operation.*

The above byelaws were made¹⁶ by the

[Insert the name of the
 school board or school
 attendance committee
 making the proposed bye-
 laws.]

at a meeting held on

day of

190 .

In witness whereof the school board have hereunto set [The words from 'in
their common seal this day of 'witness' to 'in the
190 presence of' must be
omitted when a school

[The words from 'in witness' to 'in the presence of' must be omitted when a school attendance committee make the byelaws.]

L.S.

Sealed in the presence of

Chairman.

Clerk.

NOTE.—To reach or pass a standard means to pass in reading, writing, and arithmetic in that or a higher standard.

NOTES.

¹ With regard to the continuance in force of the byelaws which are in force in any district on the appointed day under the Education Act, 1902, Schedule II. (8) of that Act provides :—

‘§85 to 88 of the Local Government Act, 1894 (which contain transitory provisions) shall apply with respect to any transfer mentioned in this Schedule, subject as follows :—

(b) the powers and duties of a school board or school attendance committee which is abolished . . . shall be deemed to be powers and duties transferred under this Act.

§87 of the Local Government Act, 1894, provides :—

‘All such byelaws, orders, and regulations of any authority, whose powers and duties are transferred by this Act to any council, as are in force at the time of the transfer, shall, so far as they relate to or are in pursuance of the powers and duties transferred, continue in force as if made by that council, and may be revoked or altered accordingly.’

² With regard to the district to which byelaws may in the future relate, it is to be noted that Schedule III. (4) of the Education Act, 1902, provides that the power of making byelaws shall (when the local education authority is a county council) include a power of making different byelaws for different parts of the area of the authority.

³ For the various classes of schools included in the expression 'certified efficient school,' see §48 of the Elementary Education Act, 1876 (p. 304), and the note thereon.

⁴ For the Day School Code, see p. 569.

⁵ The 'local authority' for the district, acting for the time being under the Elementary Education Act, 1876 (§7), was the school board, or, for any school district not within the jurisdiction of a school board, the school attendance committee. Under the Education Act, 1902, §5, the local education authority acting under Part III. of the Act, will throughout their area have the powers and duties of a school board and school attendance committee.

⁶ For the meaning of the expression 'parent,' see §3 of the Elementary Education Act, 1870, and the note thereon (p. 196).

⁷ Where, since the passing of the Elementary Education Act, 1900, school boards or school attendance committees have made any proposals for the alteration of their byelaws, it has been the practice of the Board of Education to recommend that advantage should be taken of the provisions of §6 (1) of that Act, to raise the limit of age to which the byelaws are applicable from 13 to 14, pointing out that, even if 13 is retained in the byelaws instead of 14, children between 13 and 14 may not be employed, unless they have obtained the certificate of proficiency, or of previous due

attendance prescribed by §5 and Schedule I. of the Elementary Education Act, 1876, as amended (as regards Schedule I. (2)) by §7 of the Elementary Education Act, 1900.

⁸ The excuses which are mentioned in this byelaw as being reasonable excuses are those expressly mentioned in §74 of the Elementary Education Act, 1870 (*see* note 27 to that section, p. 250). The mention of these excuses does not exclude the possibility of there being other excuses which may be held to be reasonable in any particular case.

⁹ The provisions contained in this byelaw are based upon the express provisions of §74 of the Elementary Education Act, 1870 (p. 246).

¹⁰ Byelaw 5 provides the conditions on which children may obtain total or partial exemption, and in framing it a considerable discretion is left to the local authority.

Byelaw 5 (a) relates to total exemption, and Bye-law 5 (b) to partial exemption. Byelaw 5 (c) is applicable only to cases in which the local authority desire to avail themselves of the provisions of Robson's Act (p. 325) as to the partial exemption, between the ages of 11 and 13, of children to be employed in agriculture.

The conditions, or qualifications, mentioned in the different sections of this byelaw are of two kinds, the 'proficiency' qualification and the 'attendance' qualification.

For the certificates required for the purposes of this byelaw, see the Revised Regulations of the 21st March, 1901, as to certificates of age, proficiency, and school attendance.

¹¹ The proficiency qualification is the only one which the Board of Education will allow to be inserted in Byelaw 5 (a) for the purpose of full-time exemption of children between 12 and 14, and the Board do not approve a lower standard than the fifth for this purpose.

In certain cases, however, and especially in manufacturing districts, where otherwise there might be a collision between the byelaws and the provisions of the Factory and Workshop Act, 1901, the Board of Education have approved a byelaw allowing full-time exemption to children between 13 and 14 on an attendance qualification. The following is the form which the Board require to be adopted in such cases :—

A child between 13 and 14 years of age shown to the satisfaction of the local authority to be beneficially employed shall not be required to attend school if such child has obtained a certificate that it has made 350 attendances after five years of age in not more than two schools during each year for five years whether consecutive or not.

¹² The Board of Education do not approve a byelaw allowing partial exemption from attendance at school to a child, unless it provides that it shall be shown to the satisfaction of the local authority that such child is beneficially employed when absent from school.

The Board further state that they do not as a rule approve a proficiency qualification lower than the Fourth Standard for partial exemption, nor can they approve a byelaw which provides for partial exemption on an attendance qualification only.

The Board do not approve the substitution of any other number for the 300 attendances mentioned in byelaw 5 (b) (ii) (partial exemption), this being the number prescribed in §1, proviso 3, of Robson's Act (p. 325).

As to whether it is necessary, in view of the provisions of §1 of Robson's Act, that byelaws should in all cases contain a partial exemption clause, *see* the note to that section, p. 326.

To reach or pass a standard means to pass in reading, writing, and arithmetic in that or a higher standard (*see* the note at the end of the Model Form of byelaws).

For the Revised Regulations of the 21st March 1901 as to certificates of age, proficiency, and school attendance, *see* pp. 341 to 348.

¹³ In view of the terms of the second proviso in §1 of Robson's Act (p. 325), the Board of Education require the standard adopted for Byelaw 5 (c) to be the same as that adopted for Byelaw 5 (b).

¹⁴ In cases in which the local authority have proposed to substitute 14 for 13 in

Byelaw 5 (c) the Board of Education have expressed a doubt whether a byelaw made under the second proviso of §1 of Robson's Act, which is not referred to in §6 (1) of the Elementary Education Act, 1900, can apply to children over 13, so as to deprive them of the right of obtaining total exemption under Byelaw 5 (a) on reaching that age, and under these circumstances the Board have recommended the retention of 13 in Byelaw 5 (c).

¹⁵ See §6 (2) of the Elementary Education Act, 1900, *supra*.

¹⁶ Since it is necessary, under §74 of the Elementary Education Act, 1870, to deposit the proposed byelaws for inspection not less than one month before they are submitted to the Board of Education for approval, the usual procedure has been for the local authority in the first instance to submit their proposed byelaws on the Model Form for the *provisional* approval of the Board. The Board, in giving their provisional approval, forward instructions as to the deposit of the byelaws, and after the deposit has been duly completed the byelaws are again submitted for the approval and sanction required by the Act.

II. *Extract from Report of Board of Education :—*

In the annual report of the Board of Education for the year 1900 to 1901, dated the 17th August 1901, it is stated :—

The law of school attendance under the Elementary Education Acts,¹ as it now stands, may be summarised as follows :—

- (1.) If the byelaws contain a special provision to this effect, children may be employed in agriculture at the age of 11, provided that they attend school 250 times a year up to the age of 13.
- (2.) With this exception no child, who is subject to the byelaws, can obtain either partial or total exemption under the age of 12.
- (3.) A child between 12 and 13, or (if the byelaws are extended), between 12 and 14, can only obtain total or partial exemption on the conditions prescribed by the byelaws.
- (4.) In districts where the byelaws are still restricted to children of 13 years of age, a child between 13 and 14 can obtain total exemption either on passing the Fourth Standard, or on making 350 previous attendances after 5 years of age in not more than two schools during each year for 5 years.
- (5.) A child between 12 and 14 may claim partial exemption on making 300 previous attendances, but in the view of the Board this exemption can only be claimed in cases where the byelaws themselves contain a provision for partial exemption.²

NOTE.

Such difficulty as attends the law of school attendance arises mainly from the fact that the Elementary Education Acts have dealt with the subject in a twofold manner, partly by direct statutory enactments of universal application, partly by giving power to local authorities to make byelaws which may vary according to local circumstances. The Elementary Education Act, 1870, followed the latter plan only, and it was not till the Act of 1876 that direct provisions were included in the statute law.

Further, it is necessary to realise that the Acts are based on two distinct legal conceptions, viz. : (1) the obligation of the parent, (2) the prohibition against the employer.

- (1) The obligation of the parent is placed upon him both by statute law and by

¹ Except for a provision (Schedule III. (4)) enabling a local education authority (if a county council) to make different byelaws for different parts of their area, the Education Act, 1902, does not directly deal with the law of school attendance.

² For districts in which the byelaws only extend to the age of thirteen it would seem to be in accordance with this view to substitute thirteen for fourteen in this paragraph.

byelaw; and the statutory and byelaw obligations may, and generally do, exist concurrently.

(2) The prohibition against the employer is imposed by statute, but not directly by byelaws made under the Elementary Education Acts. The Act of 1893, however (§2, p. 323), while it does not make applicable against the employer the procedure under the byelaws, imports the byelaw prohibitions against him by enacting that if any person takes a child into his employment in such a manner as to prevent the child from attending school in accordance with the byelaws for the time being in force in the district in which the child resides, he shall be deemed to take the child into his employment in contravention of the Elementary Education Act, 1876, and shall be liable to a penalty accordingly.

The statute law and byelaws are alike in making provision for exemption in the case of children nearing the upper limit of age, and are in general alike as to the age limits, the statute law referring to children between five and fourteen, and the byelaws generally adopting the same limits, though sometimes the latter extend only to the age of thirteen years, and occasionally only to the age of twelve.

The main difference is that the byelaws are usually more definite in their language and more stringent in their provisions, and can generally be more effectively used when a prosecution becomes necessary. *E.g.* it will commonly be found easier to bring a case within the definite terms of Byelaws 2 and 3, and to obtain a conviction under Byelaw 6, than to bring the same case within the comparatively vague terms of §4 of the Elementary Education Act, 1876, and the comparatively cumbrous procedure provided by §§ 11 and 12 of that Act.

III. References to sections of the *Elementary Education Acts* relating to *School Attendance*.¹

Elementary Education Act, 1870.

§3, p. 196, definition of 'parent.'

§36, p. 231, permissive power to school board to appoint officer to enforce byelaws.

§74, p. 246, permissive power to school board to make byelaws.

§85, p. 254, appearance of school board in legal proceedings.

§92, p. 255, recovery of penalties.

Elementary Education Act, 1873.

§22, p. 272, returns by schools to school boards with respect to attendance.

§23,)

§24,) pp. 273, 275, legal proceedings.

§25,)

Elementary Education Act, 1876.

§4, p. 279, declaration of duty of parent.

§5, p. 280, prohibition of employment.

§6, p. 281, penalty for employment.

§7, p. 282, local authority to enforce Act.

§9, p. 283, exceptions to prohibition of employment.

§11, p. 284, attendance order.

§12, p. 286, proceedings on disobedience to attendance order.

§13, p. 287, duty of local authority as to taking proceeding on information.

§23, p. 293, declares the duty of local authority to enforce their byelaws.

§24, p. 294, certificates of proficiency and previous due attendance.

¹ See the footnotes on the first page of this Appendix (p. 331).

§25, p. 294, certificates of age.

§26, p. 295, returns of registrars of births and deaths to school boards.

§28, p. 296, obligation of local authority to appoint officer to enforce Act and byelaws.

§29, p. 296, power of officer to enter place of employment.

§37, p. 300, legal proceedings.

§38, p. 300, authority of two members of school board required to institution of legal proceedings.

§39, p. 300, exemption of employer on proof of guilt of some other person.

§47, p. 304, definition of employment in case of parent.

§48, p. 304, definitions of 'child' and 'certified efficient school.'

§50, p. 306, construction of Act with other enactments.

Schedule I., p. 307, standards of proficiency and previous due attendance.

Elementary Education Act, 1880.

§2, p. 311, obligation on every local authority to make byelaws under §74 of the Elementary Education Act, 1870.

§4, p. 312, application against employer of byelaw prohibitions, and power to proceed against parent under byelaws as well as under Elementary Education Act, 1876.

Elementary Education (School Attendance) Act, 1893.

§1, p. 323, raising of age for exemption under byelaws from ten to eleven.

§2, p. 323, prohibition of employment of child not exempt under byelaws.

Elementary Education (School Attendance) Act, 1893, Amendment Act, 1899 (Robson's Act).

§1, p. 325, raising of age for exemption under byelaws from eleven to twelve, with certain provisos as to partial exemption.

Elementary Education Act, 1900.

§6 (1), p. 329, substitution of 14 for 13 in §74 of Elementary Education Act, 1870.

(2), p. 329, substitution of 20s. for 5s. in §74 of Elementary Education Act, 1870.

(3), p. 329, substitution of the sanction of the Board of Education for the sanction of Her Majesty in Council in the same section.

§7, p. 330, raising the standard of previous due attendance.

IV. *The Factory and Workshop Act, 1901*,¹ contains the following provisions :—

PART III.

EDUCATION OF CHILDREN.

Attendance at School of Children employed in Factory or Workshop.

68.—(1) The parent of a child employed in a factory or workshop shall cause that child to attend some recognised efficient school (which school may be selected by the parent), as follows :—

- (a) The child, when employed in a morning or afternoon set, must in every week, during any part of which he is so employed, be caused to attend on each work day for at least one attendance; and
- (b) The child, when employed on the alternate day system, must on each work day preceding each day of employment be caused to attend for at least two attendances;¹
- (c) An attendance for the purposes of this section shall be an attendance as defined for the time being by the Secretary of State with the consent of the Board of Education, and be between the hours of eight in the morning and six in the evening :

¹ This Act wholly repeals the Factory and Workshop Act, 1878 (41 & 42 Vict. c. 16), but notwithstanding this repeal the order of the Secretary of State, dated the 24th December 1878, remains in force by virtue of §161 (2) of the Factory and Workshop Act, 1901. That order defined 'attendance,' so far as concerns England, to mean 'the attendance of a child at a morning or afternoon meeting of a school 'during not less than two hours of instruction in secular subjects.'

Provided as follows :—

- (i.) A child shall not be required by this Act to attend school on Saturday or on any holiday or half-holiday allowed under this Act in the factory or workshop in which the child is employed :
 - (ii.) The non-attendance of a child shall be excused on every day on which he is certified by the teacher of the school to have been prevented from attending by sickness or other unavoidable cause, and when the school is closed during the ordinary holidays or for any other temporary cause :
 - (iii.) Where there is not within the distance of two miles, measured according to the nearest road, from the residence of the child, a recognised efficient school which the child can attend, attendance at a school temporarily approved in writing by an inspector, although not a recognised efficient school, shall for the purposes of this Act be deemed attendance at a recognised efficient school until such recognised efficient school as aforesaid is established, and with a view to such establishment the inspector shall immediately report to the Board of Education every case of the approval of a school by him under this section.
- (3) A child who has not in any week attended school for all the attendances required by this section must not be employed in the following week until he has attended school for the deficient number of attendances.
- (8) The Board of Education shall, by the publication of lists or of notices or otherwise as they think expedient, provide for giving to all persons interested information of the schools in each school district which are recognised efficient schools.

Obtaining of School Attendance Certificate by Occupier.

69—(1) The occupier of a factory or workshop in which a child is employed shall on Monday in every week (after the first week in which the child began to work therein), or on some other day appointed for that purpose by an inspector, obtain from the teacher of the recognised efficient school attended by a child a certificate (according to the prescribed form and directions) respecting the attendance of the child at school in accordance with this Act.

(3) If a child is employed without such certificate being obtained as is required by this section, the child shall be deemed to be employed contrary to the provisions of this Act.

(8) The occupier shall keep every such certificate for two months after the date thereof, if the child so long continues to be employed in his factory or workshop, and shall produce the same to an inspector when required during that period.

Payment by Occupier of Sum for Schooling.

70. The persons who manage a recognised efficient school attended by a child employed in a factory, or workshop, or some person authorised by them may (if fees for children may be charged in that school) apply in writing to the occupier of the factory or workshop to pay a weekly sum specified in the application, not exceeding three pence and not exceeding one-twelfth part of the wages of the child, and after that application the occupier, so long as he employs the child, shall be liable to pay to the applicants, while the child attends their school, that weekly sum, and the sum may be recovered as a debt, and the occupier may deduct the sum so paid by him from the wages payable for the services of the child.

Employment as Young Person of Child of 13 on obtaining Educational Certificate.

71.—(1.) When a child of the age of thirteen years has obtained from a person authorised by the Board of Education a certificate of having attained such standard of proficiency in reading, writing, and arithmetic, or such standard of previous due attendance at a certified efficient school as is mentioned in this section, that child shall be deemed to be a young person for the purposes of this Act.

(2.) The standards of proficiency and due attendance for the purposes of this section shall be such as may be from time to time fixed for the purposes of this Act by the Secretary of State, with the consent of the Board of Education, and the standards so fixed shall be published in the *London Gazette*, and shall not have effect until the expiration of at least six months after such publication.¹

¹ By an order of the Secretary of State, dated 19th December 1900, and assented to by the Board of Education, 31st December 1900, it is ordered that from and after the 1st day of July 1901 the following provisions shall take effect :—

(a) The standard of proficiency for the purpose of a certificate of proficiency to be given to any child shall be the Fifth Standard of reading, writing, and arithmetic, as fixed by the Code in force for the time being, or any higher standard which may be attained by the child.

Certificates of proficiency may be granted in the manner prescribed by §§4 to 8 of the Regulations of the Board of Education, dated 23rd April 1900.

(b) The standard of previous due attendance at a certified efficient school for the purpose of a certificate of previous due attendance shall, in the case of any child, be 350 attendances after such

(3.) Attendance at a certified day industrial school shall be deemed for the purposes of this section to be attendance at a certified efficient school.

Definitions of 'Certified Efficient School,' and 'Recognised Efficient School.'

72.—(1.) In this Act—

The expression 'certified efficient school' means a public elementary school within the meaning of the Elementary Education Acts, 1870 to 1900, and any workhouse school in England certified to be efficient by the Local Government Board, and any elementary school which is not conducted for private profit and is open at all reasonable times to the inspection of His Majesty's inspector of schools, and requires the like attendance from its scholars as is required in a public elementary school, and keeps such registers of those attendances as are for the time being required by the Board of Education, and is certified by the Board to be an efficient school; and

The expression 'recognised efficient school' means a certified efficient school, and any school which the Board of Education have not refused to take into consideration under the Elementary Education Act, 1870, as a school giving efficient elementary education to and suitable for the children of a school district, and which is recognised for the time being by an inspector under this Act as giving efficient elementary education.

(2.) An inspector shall immediately report to the Board of Education every school recognised by him as giving efficient elementary education.

Certificate of Birth in case of Young Persons under 16 and Children.

184. Where the age of any young person under the age of sixteen years or child is required to be ascertained or proved for the purposes of this Act, or for any purpose connected with the employment in labour or elementary education of the young person or child, any person shall on presenting a written requisition in such form and containing such particulars as may be from time to time prescribed by the Local Government Board, and on payment of a fee of sixpence, be entitled to obtain a certified copy under the hand of a registrar or superintendent registrar of the entry in the register, under the Births and Deaths Registration Acts, 1836 to 1874, of the birth of that young person or child; and such form or requisition shall on request be supplied without charge by every superintendent registrar and registrar of births, deaths, and marriages.

Fine for Offence by Parent.

138.—(2.) If the parent of a child neglect to cause the child to attend school in accordance with this Act, he shall be liable to a fine not exceeding twenty shillings for each offence.

General Definitions.

150.—(1.) In this Act unless the context otherwise requires:—

'Child.'

The expression 'child' means a person who is under the age of fourteen years, and who has not, being of the age of thirteen years, obtained the certificate of proficiency or attendance at school mentioned in Part III. of this Act:

'Parent.'

The expression 'parent' means a parent or guardian of, or person having the legal custody of, or the control over, or having direct benefit from the wages of, a young person or child:

'Young Person.'

The expression 'young person' means a person who has ceased to be a child and is under the age of eighteen years.

child has attained five years of age in not more than two schools during each year for five years, whether consecutive or not.

Certificates of previous due attendance at school may be granted in the manner prescribed by §§9 to 11 of the Regulations of the Board of Education, dated 23rd April 1900.

Note.—Sections 9 to 11 of the Regulations of the 21st March 1901 (p. 342) have now taken the place of the corresponding sections of the Regulations of the 23rd April 1900.

The Secretary of State's order remains in force by virtue of §161 (2) of the Factory and Workshop Act, 1901.

A note to the order states that in districts where the byelaws made by the school authority under the Elementary Education Acts apply to children between 13 and 14 years of age, a child must also satisfy the conditions of total exemption prescribed by the byelaws before he can be legally employed full time in a factory or workshop.

See also §7 of the Elementary Education Act, 1900 (p. 330), and note 11 to the model form of byelaws (p. 335).

The Canal Boats Act, 1877, provides :—

Education of Children Dwelling on board Canal Boats.

6. A child in a canal boat registered in pursuance of this Act, and his parent,¹ shall for the purposes of the Elementary Education Acts, 1870, 1873, and 1876, be deemed, subject as hereinafter mentioned, to be resident in the place to which the boat is registered as belonging, and shall be subject accordingly to any byelaw in force under the said Acts in that place.

Provided that if the parent satisfies the school board or school attendance committee having authority in that place, that the child is actually attending school, or is under efficient instruction in accordance with the said Acts, in some other school district, the said board or committee shall grant him without charge a certificate to that effect, and thereupon he and his child shall be deemed for the purposes aforesaid to be resident in the school district in which the child is so attending school, or under efficient instruction, and shall be subject to any byelaw in force therein.

The said certificate may on application by the parent be rescinded or varied by the school board or school attendance committee for the place to which the boat is registered as belonging, and may be rescinded without application by any such board or committee, if they are satisfied, after due notice to the parent, that his child is not properly attending school or under efficient instruction in the school district mentioned in the certificate.²

V. Revised Regulations of the 21st March, 1901,

AS TO

**CERTIFICATES OF AGE, PROFICIENCY,
AND SCHOOL ATTENDANCE.**

(Elementary Education Act, 1876, §24.)

BY THE BOARD OF EDUCATION.

The Board of Education, by virtue and in pursuance of the powers in them vested under the Elementary Education Act, 1876, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following regulations be substituted for those contained in the Revised Regulations as to certificates of age, proficiency, and school attendance, dated the 23rd day of April 1900.

Certificates of Age.

1. A certificate of the date of a child's birth will be granted by a registrar or superintendent registrar of births and deaths on presentation of a requisition in a form prescribed for the purpose by the Local Government Board, pursuant to §20 of the Factory and Workshop Act, 1891. The prescribed form of requisition is annexed to this order (Schedule I.). The fee for such certificate is not to exceed 6d. (*Order of Local Government Board dated 20th October, 1891.*)

2. A statutory declaration of the date of a child's birth, made by the parent of the child before a magistrate, may be accepted by the local authority in place of a registrar's certificate. The declaration shall be made on the form annexed to this Order (Schedule II.).

3. When a local authority, under the power given by §26 of the Elementary Education Act, 1876, have obtained a return of the births of children in their district which will enable them to grant age certificates to individual children, they shall, on the application of any parent or other person interested in the education or employ-

¹ The definition of 'parent' in this Act is identical with that in §3 of the Elementary Education Act, 1870.

² The Act also contains provisions as to the registration of canal boats, the power of a canal company to establish schools, and the recovery of penalties from the parent.

The Canal Boats Act, 1884, contains further provisions as to the liability of the master or owner of the boat.

In their recent annual reports the Board of Education have stated that, in their opinion, so long as children of school age are permitted to live upon canal boats, no effective means can be devised for securing their regular attendance at school.

ment of a child, grant such certificate under the hand of their clerk, or other officer deputed for the purpose, for a fee not exceeding 4d. for each child. This certificate is to be given in the form herein-after prescribed for labour certificates (Schedule III.), or, in the case of a child over thirteen years of age, in the form prescribed in Schedule IV.

Certificates of Proficiency.

4. Certificates of proficiency are certificates of having reached or passed any standard prescribed by the Code. To reach or pass a standard a child must be individually examined in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.

5. At any visit of an inspector to any public elementary or other certified efficient school, the managers are required to admit to examination, and the inspector to examine for a certificate of proficiency, any child over twelve years, or if the child is to be employed in agriculture under any byelaw made under §1, Elementary Education (School Attendance) Act, 1893, Amendment Act, 1899, over eleven years of age, whether a scholar in the school or not, if the child's parent or guardian or the local authority apply for the child to be examined for such a certificate; but the inspector is at liberty to refuse to examine any child for whose examination due provision is made elsewhere, or any child who has not been instructed for at least six months in the standard in which he is presented, or who has failed in that standard at an examination held in the previous three months.

6. The inspector may, in concert with the local authority, hold such special examinations as he may think necessary of children over eleven years of age, whom their parents or guardians or the local authority wish to be examined for certificates of proficiency.

7. The inspector does not grant certificates to individual children, but after every examination held as above he sends to the managers of the school, or in the case of a special examination to the local authority, a schedule containing the names of the children who have passed in all the three elementary subjects in any standard, with a certificate that such children have reached the standards entered opposite to their names.

8. If the local authority do not make arrangements to obtain from the managers a copy of so much of this schedule as they require, they may accept a certificate under the hand of the principal teacher of any certified efficient school as evidence that any scholar in such school has been certified by one of His Majesty's inspectors to have reached a particular standard. The principal teacher shall give such certificate, free of charge, in the form given in the second column of certificate No. 1 in the third schedule to this order, or, in the case of a child over thirteen years of age, and employed under the provisions of the Elementary Education Act, 1876, in the form given in the fifth schedule to this order.

Certificates of School Attendance.

9. Any local authority, parent, or other person interested in the employment or education of a child over twelve and under fourteen, may require the principal teacher for the time being of any certified efficient school, which such child has attended, to furnish a certificate specifying the number of school attendances made by the child in the school during each year, for which the school registers are preserved.

10. The teacher shall give such certificate in the form annexed to this order (Schedule VI.), in the first case free of charge, and for a fee not exceeding 1d. for each year's attendances in the case of the second or any subsequent certificate, that may be demanded in respect of such child.

11. The school registers of every certified efficient school shall be carefully preserved by the managers. If a school is discontinued, the registers are to be handed over to the local authority of the district.

Labour Certificates.

12. Any parent or other person interested in the employment or education of any child may apply to the local authority of the district in which the child resides for a

labour certificate. The applicant must present to the local authority the evidence of age prescribed above; he must further present *either* the certificate of proficiency, or that of school attendance prescribed above, and the local authority, if they are satisfied that the child is qualified for total or partial exemption from school attendance under the byelaws of the district, or for employment in agriculture under any byelaw made in that behalf, or for employment under the first schedule to the Elementary Education Act, 1876, shall furnish the certificate asked for in one of the forms given in the third schedule to this order.

General.

13. No certificate purporting to be granted under these regulations will be recognised unless given in one of the printed forms annexed to this Order. All these forms shall be kept by every local authority, from whom they are to be obtained free of charge, except in the cases where any fee is specially allowed.

14. The forms may be procured from the Board of Education *by the local authority*, who shall supply such number of copies as may be necessary to any local committee appointed by them, or to the managers of any certified efficient school in their district.

15. In these regulations—

- (a) The term 'local authority' means a school board, or a school attendance committee (Elementary Education Act, 1876, §§7 and 33).
- (b) The term 'local committee' means a committee, appointed by a school attendance committee, for a parish or other area in the district of such local authority (*ibid.* §32).
- (c) The term 'certified efficient school' means a public elementary school, and any elementary school which is certified by the Board of Education to be an efficient school, and any workhouse school certified to be efficient by the Local Government Board (*ibid.* §48).
- (d) The term 'attendance' means the attendance of a child at a morning or afternoon meeting of a school, during not less than two hours of instruction in secular subjects if in a school or class for elder children, or one hour and a half if in a school or class for infants.
- (e) The term 'year' means the civil year.

Workhouse Schools.¹

16. In the case of Workhouse Schools, certified to be efficient by the Local Government Board, and in which registers of attendance are duly kept, pursuant to a General Order of the said Board,—

- (1.) The term 'attendance' has the meaning prescribed by the Order of the Local Government Board dated 27th of October 1877.
- (2.) Certificates of school attendance will be granted to the scholars by one of the principal teachers of the school, or by the clerk, or other officer of the guardians deputed for the purpose.
- (3.) Certificates of proficiency will be granted, after examination, by one of the School Inspectors of the Local Government Board, and not by His Majesty's Inspectors.

Given under the Seal of Office of the Board of Education this Twenty-first day of March, in the year One thousand nine hundred and one.

L.S.

G. W. KEKEWICH,
Secretary.

¹ Workhouse schools are maintained by guardians and are subject to the jurisdiction of the Local Government Board. The principal orders of that Board relative to workhouse schools are the orders dated 24th July 1847, 27th October 1877, 3rd April 1878, and 30th January 1897. As to the powers of guardians to contribute towards the expenses of providing, enlarging, or maintaining any public elementary school attended by children who are either resident in a workhouse or in an institution to which they have been sent by the guardians from a workhouse, or boarded out by the guardians, see §2 of the Elementary Education Act, 1900, and the note thereon (p. 327).

Board of Education.Form 146 (a).

SCHEDULE III.

School District of

LABOUR CERTIFICATE, No. 1.

Age and Employment.

I certify that *A.B.*, residing at
was on the day of
19 , not less than twelve years of age,
having been born on the day
of 1 , as appears by the
registrar's certificate [or the statutory
declaration] now produced to me,¹ and
has been shown to the satisfaction of the
local authority for this district to be
beneficially employed.

(Signed) ,

² Clerk to the ³
for the above district.

Proficiency.

I certify that *A.B.*, residing at has
received a certificate from one of
His Majesty's Inspectors of Schools, that
he (or she) has ⁴ reached the
Standard.

(Signed) ,

Principal Teacher of the
School.

or ² Clerk to the ³
for the above district.

¹ Strike out what follows if the child is qualified for full time employment.² or other officer.³ School Board or School Attendance Committee.⁴ To reach a standard a child must be individually examined in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.Board of Education.Form 146 a (1)*School District of*

LABOUR CERTIFICATE, No. 1 (a) (for total exemption after 13 years of age).

Age and Employment.

I certify that *A.B.*, residing at
was on the day of
19 , not less than thirteen years of age,
having been born on the day of
of 1 , as appears by the
registrar's certificate [or the statutory
declaration] now produced to me, and has
been shown to the satisfaction of the
local authority for this district to be
beneficially employed.

(Signed) ,

¹ Clerk to the ²
for the above district.

Previous Attendance.

I certify that *A.B.*, residing at
has made 350 attendances in not more
than two schools during each year for
five preceding years, whether consecutive
or not, as shown by the ³ certificate
furnished by the Principal Teacher of
the ⁴ School.

(Signed) ,

¹ Clerk to the ²
for the above district.

¹ or other officer.² School Board or School Attendance Committee.³ For this certificate see Schedule VI.⁴ Here name school or schools in which the attendances have been made.*N.B.*—In districts where the byelaws extend to the age of 14, this certificate can only be granted if the byelaws permit full time exemption on an attendance qualification. (See note 11, p. 335.)

Board of Education.
Form 146 (b).

School District of

LABOUR CERTIFICATE, No. 2 (for partial exemption only).

Age and Employment.

I certify that *A.B.*, residing at
was on the day of
19 , not less than twelve years of age,
having been born on the day of
 1 , as appears by the
registrar's certificate [*or the statutory
declaration*] now produced to me, and has
been shown to the satisfaction of the
local authority for this district to be
beneficially employed,

(Signed) ,

¹ Clerk to the ²
for the above district.

Previous Attendance.

I certify that *A.B.*, residing at
has made 300 attendances in not more
than two schools during each year for
five preceding years, whether consecutive
or not, as shown by the ³ certificate
furnished by the Principal Teacher of
the ⁴ School.

(Signed) ,

¹ Clerk to the ²
for the above district.

¹ or other officer.

² School Board or School Attendance Committee.

³ For this certificate see Schedule VI.

⁴ Here name school or schools in which the attendances have been made.

Board of Education.
Form 146 (c).

School District of

LABOUR CERTIFICATE, No. 3 (Agriculture).

Age and Employment.

I certify that *A.B.*, residing at
was on the day of
19 , not less than eleven years of age,
having been born on the day of
 1 , as appears by the
registrar's certificate [*or the statutory
declaration*] now produced to me, and
that notice has been given to the local
authority for this district that he is to
be employed in agriculture.

(Signed) ,

¹ Clerk to the ²
for the above district.

[Proficiency.]

I certify that *A.B.*, residing at
has received a certificate from one
of His Majesty's Inspectors of Schools,
that he (*or she*) has ⁴ passed the
Standard, being that prescribed by the
byelaws for partial exemption.

(Signed) ,

Principal Teacher of the
 School.

or ¹ Clerk to the ²
for the above district.

¹ or other officer.

² School Board or School Attendance Committee.

³ To pass a standard a child must be individually examined in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.

N.B.—This certificate can only be given in school districts where a special 'agricultural' byelaw is in force. (See byelaw 5 (c), p. 383.)

Board of Education.
Form 144 (a).

SCHEDULE IV.

(The following certificate applies only to cases of children over 13 years of age.)

**CERTIFICATE OF AGE FOR THE PURPOSE OF EMPLOYMENT UNDER SECTION 5,
ELEMENTARY EDUCATION ACT, 1876.**

I certify that *A. B.*, residing at
was on the day of 19 , not less than thirteen
years of age, having been born on the day of 1
as appears by the Registrar's Certificate [*or the Statutory Declaration*] now produced
to me.

Signed
Clerk to the¹
of

¹ School Board or School Attendance Committee.

Board of Education.
Form 144 (b).

SCHEDULE V.

(The following certificate applies only to cases of children over 13 years of age.)

**CERTIFICATE OF PROFICIENCY FOR THE PURPOSE OF EMPLOYMENT UNDER SECTION 5,
ELEMENTARY EDUCATION ACT, 1876.**

I hereby certify that *A. B.*, residing at
has received a certificate from , one of
His Majesty's Inspectors of Schools, that he (*or she*) has reached¹ the standard of
reading, writing, and elementary arithmetic fixed by Standard IV. of the Code
of 1876.

Signed Principal Teacher of the School,

or Clerk to the²
of

¹ To reach a standard a child must be individually examined in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.

² School Board or School Attendance Committee.

Board of Education.
Form 144 (c).

SCHEDULE VI.

CERTIFICATE OF SCHOOL ATTENDANCE FOR THE PURPOSE OF EMPLOYMENT UNDER SECTION 5, ELEMENTARY EDUCATION ACT, 1876, OR FOR TOTAL OR PARTIAL EXEMPTION UNDER THE BYELAWS.

¹School.

I hereby certify that the following particulars with respect to the Attendances made by the child named below, at this school after attaining the age of 5 years, are correctly taken from the registers of the school.

Name in full, and Residence of Child.	Number of Attendances made within the 12 months ending the 31st December.	
	1	
	1	
	1	
	1	
	1	

Signed this day of 19 .

Principal Teacher of the above-named School.

¹ Enter name in full, and state whether a Public Elementary, or Certified Efficient School. (See §7 of the Elementary Education Act, 1900, p. 830.)

THE TECHNICAL INSTRUCTION ACT, 1889.

52 & 53 Victoria, Chap. 76.

AN ACT to facilitate the Provision of Technical Instruction.

[30th August 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Power for Local Authority to supply or aid the supply of Technical Instruction.

1.—(1.) *A local authority may from time to time out of the local rate supply or aid the supply of technical or manual instruction, to such extent and on such terms as the authority think expedient, subject to the following restrictions,¹ namely:—*

- (a) *The local authority shall not out of the local rate supply or aid the supply of technical or manual instruction to scholars receiving instruction at an elementary school in the obligatory or standard subjects prescribed by the minutes of the Education Department for the time being in force ;²*
- (b) *It shall not be required, as a condition of any scholar being admitted into or continuing in any school aided out of the local rate, and receiving technical or manual instruction under this Act that he shall attend at or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere : Provided that in any school, the erection of which has been aided under this Act, it shall not be required, as a condition of any scholar being admitted into or continuing in such school, that he shall attend at or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere ;³*
- (c) *No religious catechism or religious formulary, which is distinctive of any particular denomination, shall be taught at any school aided out of the local rate, to a scholar attending only for the purposes of technical or manual instruction under this Act, and the times for prayer or religious worship, or for any lesson or series of lessons on a religious subject, shall*

be conveniently arranged for the purpose of allowing the withdrawal of such scholar therefrom ;³

- (d) *A local authority may, on the request of the school board for its district or any part of its district, or of any other managers of a school or institution within its district for the time being in receipt of aid from the Department of Science and Art, make, out of any local rate raised in pursuance of this Act, to such extent as may be reasonably sufficient, having regard to the requirements of the district, but subject to the conditions and restrictions contained in this section, provision in aid of the technical and manual instruction for the time being supplied in schools or institutions within its district, and shall distribute the provision so made in proportion to the nature and amount of efficient technical or manual instruction supplied by those schools or institutions respectively ;⁴*
- (e) *Where such other managers of a school or institution receive aid from a local authority in pursuance of this section, the local authority shall, for the purposes of this Act, be represented on the governing body of the school or institution in such proportion as will, as nearly as may be, correspond to the proportion which the aid given by the local authority bears to the contribution made from all sources other than the local rate and money provided by Parliament to the cost of the technical or manual instruction given in the school or institution aided ;⁵*
- (f) *If any question arises as to the sufficiency of the provision made under this section, or as to the qualification of any school or institution to participate in any such provision, or as to the amount to be allotted to each school or institution, or as to the extent to which, or mode in which, the local authority is to be represented on the governing body of any such school or institution, the question shall be determined by the Department of Science and Art : Provided that no such provision, out of any rate raised in pursuance of this Act, shall be made in aid of technical or manual instruction in any school conducted for private profit ;⁶ and*
- (g) *The amount of the rate to be raised in any one year by a local authority for the purposes of this Act shall not exceed the sum of one penny in the pound.⁷*

(2.) *A local authority may for the purposes of this Act appoint a committee consisting either wholly or partly of members of the local authority, and may delegate to any such committee any powers exercisable by the authority under this Act, except the power of raising a rate or borrowing money.⁸*

(3.) *Nothing in this Act shall be construed so as to interfere with any existing powers of school boards with respect to the provision of technical and manual instruction.*

¹ This Act, which was passed in the year following the creation of county and county borough councils by the Local Government Act, 1888, and gave to these councils, and to the councils of other boroughs and to any urban sanitary authorities within the meaning of the Public Health Acts, power to supply or aid the supply of technical or manual instruction as defined in the Act out of the local rate, subject to certain restrictions (the most important being the penny limit to the rate), is wholly repealed (except as regards London) by the Education Act, 1902.

For the wider powers of aiding education other than elementary given to local education authorities under Part II. of that Act, *see* §2 and the notes thereon (p. 30), and for the concurrent powers given to the councils of non-county boroughs and urban districts, *see* §3 (p. 37).

That Act provides (Schedule III. (11)) that references in any enactment or in any provision of a scheme made under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, or the Elementary Education Acts, 1870 to 1900, to any provisions of the Technical Instruction Acts, 1889 and 1891, or either of those Acts, shall, unless the context otherwise requires, be construed as references to the provisions of Part II. of that Act and that the provisions of that Act shall apply with respect to any school, college, or hostel established, and to any obligation incurred, under the Technical Instruction Acts, 1889 and 1891, as if the school, college, or hostel had been established or the obligation incurred under Part II. of that Act. For the effect of this provision, *see* the note to the Education Act, 1902, Schedule III. (11), *ante*.

² *See* §22 (3) of the Education Act, 1902, and the note thereon.

³ *See* §4 of the Education Act, 1902, and the note thereon.

⁴ The powers given by this clause were extended by §1 of the Technical Instruction Act, 1891 (p. 356).

⁵ *See* note 3 to §2 of the Education Act, 1902 (p. 33), and the second paragraph of the note to Schedule III. (11) of that Act (p. 182).

⁶ The provisions of this clause are not repeated in the Education Act, 1902.

⁷ *See* note 3 to §2 of the Education Act, 1902 (p. 32).

⁸ *See* §17 of the Education Act, 1902, and the notes thereon.

Provision for Entrance Examination.

2. *It shall be competent for any school board or local authority, should they think fit, to institute an entrance examination for persons desirous of attending technical schools or classes under their management or to which they contribute.*

Parliamentary Grants in Aid of Technical Instruction.

3. *The conditions on which parliamentary grants may be made in aid of technical or manual instruction shall be those contained in the minutes of the Department of Science and Art in force for the time being.*¹

¹ For the conditions on which grants are made by the Board of Education, which has taken the place of the Department of Science and Art, to secondary day schools and to evening schools, *see* pp. 636 to 658.

Provisions as to Local Authorities.

4.—(1.) *For the purposes of this Act the expression 'local authority' shall mean the council of any county or borough, and any urban sanitary authority within the meaning of the Public Health Acts.*¹

(2.) *The local rate for the purposes of this Act shall be—*

(a) *In the case of a county council, the county fund ;*

(b) *In the case of a borough council, the borough fund or the borough rate ;*

(c) *In the case of an urban sanitary authority not being a borough council, the district fund and general district rate, or other fund or rate applicable to the general purposes of the Public Health Acts.*²

(3.) *A county council may charge any expenses incurred by them under this Act on any part of their county for the requirements of which such expenses have been incurred.*³

(4.) *A local authority may borrow for the purposes of this Act—*

- (a) *In the case of a county council, in manner provided by the Local Government Act, 1888 :*
- (b) *In the case of a borough council, as if the purposes of this Act were purposes for which they are authorised by section one hundred and six of the Municipal Corporations Act, 1882, to borrow :*
- (c) *In the case of an urban sanitary authority not being a borough council, as if the purposes of this Act were purposes for which they are authorised to borrow under the Public Health Acts.⁴*

¹ See §3 of the Education Act, 1902, and the note thereon (p. 37).

² See §18 (1) of the Education Act, 1902.

³ See §18 (1) (a) of the Education Act, 1902.

⁴ See §19 (1) of the Education Act, 1902.

Audit of Accounts of Aided Schools.

5. *Where the managers of a school or institution receive aid from a local authority in pursuance of this Act, they shall render to the local authority such accounts relating to the application of the money granted in aid, and those accounts shall be verified and audited in such manner, as the local authority may require, and the managers shall be personally liable to refund to the local authority any money granted under this Act, and not shown to be properly applied for the purposes for which it was granted.*

Audit of Accounts of Urban Sanitary Authority.

6. *The accounts of the receipts and expenditure of an urban sanitary authority under this Act shall be audited in like manner and with the like incidents and consequences, as the accounts of their receipts and expenditure under the Public Health Act, 1875.*

Application of the Act to Ireland.

7. *In the application of this Act to Ireland—*

(1.) *The expression 'local authority' shall mean the urban or rural sanitary authority, as the case may be, within the meaning of the Public Health (Ireland) Act, 1878.*

(2.) *The local rate for the purposes of this Act shall be—*

- (a) *In the case of an urban sanitary authority, the rate or fund applicable to the expenses incurred or payable by such authority in the execution of the Public Health (Ireland) Act, 1878, under the provisions of the said Act ;*
- (b) *In the case of a rural sanitary authority, the rate or rates out of which special expenses incurred in respect of any contributory place or places are payable under the provisions of the said Act.*

(3.) *A local authority may borrow for the purposes of this Act as if the purposes of this Act were purposes for which the sanitary authority are authorised to borrow under the Public Health (Ireland) Act, 1878.*

(4.) Any reference to the *Public Health Act, 1875*, shall be construed as a reference to the *Public Health (Ireland) Act, 1878*.

*Meaning of Technical and Manual Instruction.*¹

8. *In this Act—*

The expression ‘technical instruction’ shall mean instruction in the principles of science and art applicable to industries, and in the application of special branches of science and art to specific industries or employments. It shall not include teaching the practice of any trade or industry or employment, but, save as aforesaid, shall include instruction in the branches of science and art with respect to which grants are for the time being made by the Department of Science and Art, and any other form of instruction (including modern languages and commercial and agricultural subjects), which may for the time being be sanctioned by that Department by a minute laid before Parliament and made on the representation of a local authority that such a form of instruction is required by the circumstances of its district.

The expression ‘manual instruction’ shall mean instruction in the use of tools, processes of agriculture, and modelling in clay, wood, or other material.

¹ See note 3 to §2 of the Education Act, 1902 (p. 31).

Extent of Act.

9. *This Act shall not extend to Scotland.*

Short Title.

10. *This Act may be cited as the Technical Instruction Act, 1889.*

THE LOCAL TAXATION (CUSTOMS AND EXCISE) ACT, 1890.

53 & 54 Victoria, Chap. 60.

AN ACT for the Distribution and Application of certain Duties of Customs and Excise; and for other purposes connected therewith. [18th August 1890.]

WHEREAS certain local taxation (customs and excise) duties have by an Act of the present session been directed to be paid to the same local taxation accounts as the local taxation probate duty, and it is expedient to provide for the distribution and application of the duties so paid :

* * * * *

Application of English share of Customs and Excise Duties.

1. (1.) Out of the English share of the local taxation (customs and excise) duties paid to the local taxation account on account of any financial year—

- (a) The sum of three hundred thousand pounds shall be applied for such purposes of police superannuation in England as herein-after mentioned ;
- (b) The residue shall, unless Parliament otherwise determines, be distributed between county and county borough funds, and carried to the Exchequer contribution accounts of those funds respectively, and applied under the Local Government Act, 1888, as if it were part of the English share of the local taxation probate duty, and shall be the subject of an adjustment between counties and county boroughs, according to section thirty-two of the said Act, by the Commissioners under that Act.¹

(2.) *The council of any such county or county borough may contribute any sum received by such council in respect of the residue under this section, or any part of that sum, for the purposes of technical education² within the meaning of the Technical Instruction Act, 1889, and may make that contribution over and above any sum that may be raised by rate under that Act.³*

(3.) *A county council may make any such contribution by giving the amount of the contribution or any part of that amount to any town council or other urban sanitary authority in their county for the purpose of the same being applied by such council or authority under the Technical Instruction Act, 1889, over and above any sum which can be raised under that Act by rate by such council or authority.*³

(4.) The council for any county to which the Welsh Intermediate Education Act, 1889, applies may contribute any sum received by such council under this section in respect of the said residue or any part of that sum towards intermediate and technical education under that Act, in addition to the amount which the council can under that Act contribute for such education.⁴

* * * * *

¹ Section 2 of the Education Act, 1902, makes it obligatory on the local education authority under Part II. of that Act to apply the 'residue grant' under this section (popularly known as the 'whisky money') to the purpose of supplying or aiding the supply of education other than elementary, and of promoting the general co-ordination of all forms of education. See note 5 to that section, p. 34.

From a return, dated 18th June 1902, it appears that the residue grant for the year 1900-1 amounted to £968,718, 5s. 8d. Of this £60,513, 8s. 5d., was given to the relief of rates (including £32,711, 9s. 2d., so given by the London County Council), and the remainder was appropriated to educational purposes. The total amount expended on technical education in England and Wales during the year 1900-1, exclusive of the sums allocated to intermediate and technical education under the Welsh Intermediate Education Act, 1889 (see note 4, *infra*), was £1,051,422, 0s. 9d.

² For the meaning of the expression 'technical education' as used here, see §3 of the Technical Instruction Act, 1891 (p. 357).

³ Subsections (2) and (3) of the present section are repealed by the Education Act, 1902.

⁴ The county and county borough councils in Wales and Monmouthshire have generally recommended the inclusion either of the whole of the residue grant or of the greater part thereof in the funds to be administered by the county governing body under the scheme made under the Welsh Intermediate Education Act, 1889, for their respective areas. In some cases also a substantial contribution is made by the county council in aid of technical instruction in the county schools under that Act, out of rates levied under the Technical Instruction Act. See the note to §8 of the Welsh Intermediate Education Act, 1889 (p. 451).

THE TECHNICAL INSTRUCTION ACT, 1891.

54 Victoria, Chap. 4.

AN ACT¹ to amend the Law relating to Technical Instruction. [26th March 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Explanation of Powers of Local Authority as to Technical Instruction.

1.—(1.) *Subject to the conditions and restrictions contained in the Technical Instruction Act, 1889, a local authority may—*

- (a) *Make such provision in aid of the technical or manual instruction for the time being supplied in a school or institution outside its district as may, in the opinion of the authority, be necessary for the requirements of the district in cases where similar provision cannot be so advantageously made by aiding a school or institution within its district ; and*
- (b) *Provide or assist in providing scholarships for or pay or assist in paying the fees of students ordinarily resident in the district of the local authority at schools or institutions within or outside that district.*

(2.) *In distributing the provision made in aid of technical or manual instruction, the local authority may consider all the circumstances of the case, and shall not be bound to distribute the provision so made exclusively in proportion to the nature and amount of efficient technical or manual instruction supplied by those schools or institutions respectively.*²

¹ This Act, which extended the powers of a local authority under the Technical Instruction Act, 1889, and the Local Taxation (Customs and Excise) Act, 1890, is wholly repealed by the Education Act, 1902.

² The first sub-section of this section extended the powers of a local authority under the Technical Instruction Act, 1889, so as to include (a) the power of aiding schools 'outside its district'; (b) the power of paying fees or providing scholarships at schools either within or outside its district.

The second sub-section removed the restrictions imposed by the last words of §1 (1) (d) of the Technical Instruction Act, 1889.

The powers thus given to a local authority are continued to the councils of county, borough, and urban district councils by §§2, 3, and 23 (2) of the Education Act, 1902.

Application of Balances.

2. Any moneys received by a county council under sub-section (1) (b) of section one of the *Local Taxation (Customs and Excise) Act, 1890*, and directed by resolution of the county council to be appropriated or to be set aside for the purposes of technical or manual instruction, shall, although not expended or specifically contributed or allotted in whole or in part before the end of the financial year, remain applicable for such purposes, and shall not be applied in manner provided by sub-section (2) and the following sub-sections of section twenty-three of the *Local Government Act, 1888*, until the county council shall have made an order for such application.

Where a council shall have referred to a committee the question of appropriating for purposes of technical or manual instruction any sum consisting of the whole or any part of such moneys, this section, unless and until the council otherwise direct, shall, until the committee shall have made their report and the council shall have arrived at a decision thereon or the appointment of the committee shall have been rescinded, apply to such sum as if the same had been directed by the council to be appropriated to such purposes.¹

¹ As to the effect of this section and of its repeal by the *Education Act, 1902*, see note 5 to §2 of that Act (p 34).

Construction of 53 & 54 Vict. c. 60, s. 1.

3. The expression 'technical education' in section one of the *Local Taxation (Customs and Excise) Act, 1890*, shall be deemed to include both technical and manual instruction within the meaning of the *Technical Instruction Acts, 1889 and 1891*.¹

¹ This section remedied the omission of any reference to 'manual' instruction in §1 of the *Local Taxation (Customs and Excise) Act, 1890*.

Short Title and Construction.

4. This Act may be cited as the *Technical Instruction Act, 1891*, and shall be construed as one with the *Technical Instruction Act, 1889*, and this Act and the *Technical Instruction Act, 1889*, may be cited together as the *Technical Instruction Acts, 1889 and 1891*.

THE SCHOOLS FOR SCIENCE AND ART ACT, 1891.

54 & 55 Victoria, Chap. 61.

AN ACT to facilitate the transfer of Schools for Science and Art to Local Authorities. [5th August 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Transfer of School for Science and Art or Literary or Scientific Institution to Local Authority.

1.—(1.) The managers of any school for science and art, or for science, or for art, or of any institution to which the Literary and Scientific Institutions Act, 1854, applies, may make an arrangement with any local authority within the meaning of the Technical Instruction Act, 1889, for transferring the school or institution to that authority, and the local authority may assent to any such arrangement and give effect thereto, subject to the provisions of that Act.

(2.) The provisions of section twenty-three of the Elementary Education Act, 1870, with respect to arrangements for the transfer of schools shall apply in the case of arrangements for the transfer of schools or institutions in pursuance of this section, with this modification, that for the purposes of transfers to a local authority references to the school board shall be construed as references to the local authority and references to the Education Department as references to the Department of Science and Art, and references to a school shall, in the case of an institution not being a school, be construed as references to the institution.

(3.) In this section the expression 'managers' includes all persons who have the management of any school or institution, whether the legal interest in the site and buildings of the school or institution is or is not vested in them.¹

¹ A building grant made by the Department of Science and Art in aid of the provision of a school for science or art was usually made only on the condition that the premises

were secured on trust for the instruction of children and adults in the pure and natural sciences applicable to industry and manufactures, or in drawing, painting, modelling, designing for architecture, manufactures, and decoration, and for no other purpose whatever; and no provision for alienation was made by the model form of trust deed. This Act was passed to enable the transfer of such schools from their former managers to the local authorities which had recently been established under the Technical Instruction Act, 1889 (see §23 of the Elementary Education Act, 1870, and the note thereon, *ad init.*, p. 216). By a minute of the Committee of Council on Education, dated the 12th September 1891, one of the rules laid down respecting such transfers was the following:—

Premises in which a building grant has been made by the Department of Science and Art must, if transferred, be absolutely conveyed to the local authority, which must then stand in the same relation to the Department in so far as respects the conditions on which building grants are made, as the trustees stood under their trust deed; that is to say, the local authority must undertake that, so long as the building grant is not repaid—

- (1.) *The premises shall be used solely as a School for Science or Art, as defined by the regulations of the Department, as the case may be.*
- (2.) They shall be open at all reasonable times to the inspection of the Department's officers.
- (3.) The students shall be instructed by teachers qualified to earn payments from the Department on the results of their teaching.
- (4.) Provision be made for the constitution of a proper committee of management.

The Board of Education have recently modified the requirement printed in italics above, by the substitution of a rule that the undertaking must be that 'the premises shall be used in perpetuity solely for educational purposes approved by the Board of Education.'

Short Title.

2. This Act may be cited as the Schools for Science and Art Act, 1891.

THE TECHNICAL AND INDUSTRIAL INSTITUTIONS ACT, 1892.

55 & 56 Victoria, Chap. 29.

AN ACT to facilitate the Acquisition and Holding of Land by Institutions for promoting Technical and Industrial Instruction and Training. [27th June 1892.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title.

1. This Act may be cited as the Technical and Industrial Institutions Act, 1892.

Definition of Institution.

2. This Act applies to every institution established, whether before or after the passing of this Act, for effecting all or any of the following purposes, that is to say :—

- (i.) To give technical instruction within the meaning of the Technical Instruction Act, 1889 ;¹
- (ii.) To provide the training, mental or physical, necessary for the above purpose.
- (iii.) In connection with the purposes before mentioned, to provide workshops, tools, scientific apparatus and plant of all kinds, libraries, reading rooms, halls for lectures, exhibitions, and meetings, gymnasiums, and swimming baths, and also general facilities for mental and physical training, recreation, and amusement, and also all necessary and proper accommodation for persons frequenting the institution ;

and every such institution is in this Act referred to as the institution.

¹ See Schedule III. (11) of the Education Act, 1902, and the note thereon, (p. 182).

Governing Body.

3.—(1.) The governing body of the institution may be any body corporate, council, public authority, local authority, commissioners, directors, committee, trustees, or other body of persons, corporate or unincorporate, willing to undertake, or elected or appointed for the purpose of undertaking, or having, the government and management of the institution.

(2.) The governing body may make byelaws and rules for the management and conduct of the institution.

Incorporation of 8 & 9 Vict. c. 18.

4. The Lands Clauses Consolidation Act, 1845, and the Lands Clauses Consolidation Acts Amendment Act, 1860 (except the provisions of those Acts relating to the purchase and taking of lands otherwise than by agreement, and with respect to the entry upon lands by promoters of the undertaking, and with respect to determining the amount of purchase-money by valuation of surveyors), are hereby incorporated in this Act.

Power to take Land by Agreement.

5. The governing body of the institution may by agreement enter on, take, and use any land required by them for the purposes of the institution, and such land may be conveyed either to the governing body or to trustees for the governing body.

Conveyance may be by way of Sale, Exchange, or Gift.

6.—(1.) A conveyance of land may be made to the governing body of the institution or to trustees for the governing body either for valuable consideration in money, or in consideration of a rent-charge, or by way of exchange for other land, or, subject as in this Act provided,¹ by way of free gift, and without any consideration.

(2.) A conveyance under this Act by a person having an equitable estate shall operate to pass any bare outstanding legal estate vested in a trustee.

¹ The reference is to the provisions of §§7 and 10, *infra*.

Conveyances by Limited Owners.

7.—(1.) A conveyance under this Act by a person not entitled to dispose absolutely for his own benefit of the land proposed to be conveyed (other than a conveyance on a sale or exchange for the best consideration in money, or by way of rentcharge, or in land to be reasonably obtained) shall be subject to the following restrictions and provisions:—

(a) It shall not in itself, or in addition to any land conveyed under this Act by the same person, comprise more than two acres in the whole in any one county, city, or borough:

(b) It shall be made either with the consent of the person, if any, entitled to the next estate of freehold in remainder for the time being, or with the approval of the High Court of Justice.

(2.) Every application to the Court for an order approving a conveyance under this Act shall be by summons in chambers, and shall, subject to the Acts regulating the Court, be assigned to the Chancery Division.

(3.) On any such application the Court may direct notice to be served on such persons, if any, as it thinks fit.

(4.) On any such application the Court shall have regard to the circumstances of the settled estate, the wants of the neighbourhood, and the interests of the persons entitled in remainder, and the Court, if it thinks fit under all the circumstances of the case, may make an order approving the proposed conveyance. Such order, if the Court thinks fit, may be made on such terms and conditions, if any, as the Court thinks proper; but no such order shall be made if the application is opposed by any person entitled in remainder, unless the Court is of opinion that the opposition is unreasonable, or the interest of the person opposing so remote that it may properly be disregarded.

Institution to be public.

8. Every institution for which land has been acquired under an exercise of the powers conferred by this Act shall be open generally either to all persons or to all persons within specified limits as to age, qualification, or otherwise, and either without payment or on specified terms as to times of attendance and payment of subscriptions or fees or otherwise, but so that no preference be given to any person or class of persons within the specified limits.

Site may be Sold or Exchanged.

9.—(1.) Land acquired under the powers of this Act shall not be used otherwise than for the purposes of an institution within the meaning of this Act, but, with the consent of the Charity Commissioners,¹ may be sold or may be exchanged for other land.

(2.) The governing body or their trustees may execute conveyances and do all acts necessary to effectuate a sale or exchange.

(3.) On a sale, the receipt of the governing body or of the trustees for the governing body shall be a sufficient discharge for the purchase-money, and such money shall, as soon as convenient, be invested in the purchase of other land.

(4.) Land purchased or taken in exchange under this section shall be devoted to the same purposes and be liable to the same incidents as originally were applicable to or affected the land sold or given in exchange.

(5.) Money arising by sale may, until reinvested in the purchase of land, be invested in the names of the governing body or of trustees for the governing body in any manner in which trust money is for the time being

by law authorised to be invested ; and all dividends and income on investments so made and all the resulting income shall be invested in like manner so as to accumulate in the way of compound interest, and be added to capital until the capital is reinvested in the purchase of land.

¹ See the Board of Education (Powers) Order in Council, 1902, and the note thereon (p. 401).

*Parts I. and II. of 51 & 52 Vict. c. 42, and part of 54 & 55
Vict. c. 73 not to apply.*

10.—(1.) Parts I. and II. of the Mortmain and Charitable Uses Act, 1888, and so much of the Mortmain and Charitable Uses Act, 1891, as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to conveyances or to assurances by will made under or for the purposes of this Act,¹ but every such conveyance or assurance shall be enrolled as soon as may be in the books of the Charity Commissioners.²

(2.) Any corporate body may acquire and shall be entitled to hold and retain land for the purposes of this Act without any licence in mortmain.¹

¹ For the Mortmain and Charitable Uses Acts, 1888 and 1891, see pp. 525 to 534, and as to the 'purposes of this Act,' see the note to §2, *supra*, and to Schedule III. (11) of the Education Act, 1902.

For a similar partial exemption from the provisions of the Mortmain Acts in the case of elementary schools, see §23 (5) of the Education Act, 1902, *ante*.

² This enrolment may now be made in the books of the Board of Education. See the note to §5 of the Mortmain and Charitable Uses Act, 1891 (p. 533).

Extent of Act.

11. This Act shall not extend to Scotland.

THE EDUCATION ACT, 1901.

1 Edward VII., Chap. 11.

AN ACT for enabling local authorities to empower School Boards temporarily to carry on certain schools; and for sanctioning certain School Board expenses.

[9th August 1901.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Temporary Provision for certain School Board Schools.

1.—(1.) Where a school board has at any time during the twelve months immediately preceding the thirty-first day of July one thousand nine hundred and one maintained out of the school fund any school or class to the maintenance of which the school fund is not lawfully applicable, the council of the county or county borough within which the school or class is held, or, with the sanction of the Board of Education, any other local authority under the Technical Instruction Acts, 1889 and 1891, for the district within which the school or class is held, may empower the school board to carry on for the period of one year from that day the work of the school or class to such extent and on such terms as may be agreed on between such council or local authority and the school board, and to apply to the maintenance of the school or class such sum out of the school fund as the council or local authority may sanction.¹

(2.) Where any expenses incurred by a school board in respect of any such school or class before the said day are sanctioned by the Local Government Board the legality of those expenses shall not be questioned in any court.

Short Title.

2. This Act may be cited as the Education Act, 1901.

¹ Owing to the decision in the case *R. v. Cockerton* (*see* p. 197) it became necessary, pending the passing of permanent legislation, to make temporary provision for the

continuance of those schools and classes to the maintenance of which the application by school boards of rates raised under the Elementary Education Acts had been pronounced to be illegal. This provision was made by the Education Act, 1901.

In the Annual Report of the Board of Education for the year 1901-2, dated the 7th August 1902, it is stated ;—

With one exception, the councils of all the counties and county boroughs to which the Act applied showed themselves willing to exercise the authority given them by the Act, and in one case we (the Board of Education) sanctioned, with the concurrence of the county council, the exercise of this authority by the town council of a borough which was not a county borough.

The schools and classes which have been continued by school boards under this Act comprise :—

(1.) Day schools called Schools of Science, and science and art day classes, generally conducted in connection with the upper divisions of public elementary day schools :

(2.) Evening schools and classes.

As regards the former they have been conducted during the past year on the same lines as in previous years, except that in certain cases Schools of Science have been re-organised and transformed into Higher Elementary Schools under Article 110 of the Day School Code.

As regards the latter, they have been conducted under the first twenty Articles of the Minute of the 3rd July 1901.

For Schools of Science, *see* p. 638 ; for Higher Elementary Schools, *see* p. 592 ; and for the Minute of the 3rd July 1901, *see* p. 636.

The operation of the Education Act, 1901, was extended for a year (that is, to the 31st July 1903) by the Education Act, 1901, (Renewal) Act, 1902. Section 1 of the latter Act provided that the Education Act, 1901, should have effect, as respects the year ending the thirty-first day of July, one thousand nine hundred and three, as if 'one thousand nine hundred and two' were substituted for 'one thousand nine hundred and one,' in §1 of that Act.

The Education Act, 1901, and the Education Act, 1901, (Renewal) Act, 1902, are commonly spoken of as the 'Cockerton Acts.'

During the Session 1902-3 the above-mentioned kinds of schools have continued to be conducted by school boards under the authorisation of county and county borough councils, and, in view of the decision of the Court of Appeal in the case of Dyer and others *v.* the School Board for London (*see* note 7 to §22 of the Education Act, 1902, *ante*), school boards conducting pupil-teacher centres have generally obtained a similar temporary authorisation to the continuance of these centres.

The authorisation under these Acts might be given so as to hold good till the 31st July 1903, and it has generally been given accordingly. In cases in which the appointed day under the Education Act, 1902, is a day earlier than the 31st July 1903, the power of the school board under the authorisation so given will pass to the council which is the local education authority for the purpose of Part III. of the Act (*see* §5 and Schedule II. (1) of the Education Act, 1902, *ante*), and will cease on the 31st July without the possibility of extension. In cases in which the appointed day is the 31st July 1903, or any later day, the power will remain with the school board till the 31st July, and will then cease, unless renewed in virtue of the provisions of §27 (3) of the Education Act, 1902.

Some difficulties may perhaps arise as to what properties and liabilities are transferred by Schedule II. (1) of the Education Act, 1902, in cases where the school board have acquired property or incurred liabilities in respect of buildings to be used for such schools as schools of science or pupil-teacher centres. The effect of the Cockerton Acts in such cases is to legitimise the "carrying on" of the schools or classes in question, and impliedly therefore to legitimise the possession by the school board of any property in use for the purpose, but the Acts do not directly affect the ownership of such property nor any liabilities incurred in respect of it.

The effect of Schedule II. (1) will be to transfer any right to possession for the purpose in question, which the school board may have on the appointed day, to the local education authority for the purpose of Part III. of the Act, and it will depend

on the circumstances of the particular case whether such right to possession will carry with it any right of ownership. In so far as any ownership in such property is transferred the liability incurred in acquiring the property would presumably be also transferred as an 'existing liability' within the meaning of Schedule II. (1), on the ground that *qui sentit commodum sentire debet et onus*, although the instrument providing for such liability may in its inception have been void. Where the money has been borrowed from the Public Works Loans Commissioners, §19 of the Public Works Loans Act, 1875, will apply, with the result that if the loan has been granted by the Commissioners on the security of any rate to a borrower who appeared to the Commissioners to have power to levy and mortgage such rate, and has been expended upon the work in respect of which or in or for the benefit of the locality in which such rate or any part thereof is levied, the mortgage of the rate will be valid notwithstanding any defect in the form or title of the borrower, and the Commissioners, although such borrower is dissolved, will have the same power of making and levying and enforcing the rate for the purpose of repaying such loan and interest as if the borrower was not dissolved, and had had full power to make, levy, and mortgage such rate.

In the case of a private lender, where the loan is secured by a mortgage-deed, the powers conferred by §19 of the Conveyancing Act, 1881, might possibly enable him to take such steps as would justify the local education authority in repaying the loan.

DIVISION III.

ACTS RELATING TO EDUCATIONAL ENDOWMENTS.

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ACTS RELATING TO EDUCATIONAL ENDOWMENTS.

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DIVISION III.

ACTS RELATING TO EDUCATIONAL ENDOWMENTS AND THEIR CO-ORDINATION.

SUMMARY.

THE general co-ordination of all forms of education is expressly placed before the Local Education Authorities by §2 of the Education Act, 1902,¹ as one of the principal objects which it is their duty to promote. The fact that the public elementary schools throughout England and Wales have been for upwards of thirty years under the control of one Department of the State may render the task of transferring so much as has been thought right of the control of those schools to the new local education authorities, and of making them form part of an organised system under those authorities, comparatively easy of accomplishment, but with regard to schools and educational institutions other than elementary the conditions are different. Until the end of the nineteenth century, there was no single Department of State having supervision over the various governing bodies and public authorities who administered the numerous endowments for educational purposes, or otherwise provided facilities for higher education; and it was only by the enactment of the Board of Education Act, 1899,² and the framing of the Orders in Council made thereunder,³ that an effective supervision over the greater number of such bodies by a single central department has been rendered possible. The Board of Education have thereby been enabled to exercise the powers of the Charity Commissioners in respect of any endowments which are solely educational, with the result that the local education authority, who will be advised and controlled by the Board of Education in their administration of elementary education, will be able to seek advice from the same Board as to the best means of utilising the various educational endowments applied, or capable of being applied, within their area, and in most cases to look to that Board to take the necessary steps by framing new schemes when required to enable them to carry out such advice.

Accordingly the preceding section of the book having dealt with the Acts relating to public elementary schools, this section includes the Acts relating to endowments, viz. the Charitable Trusts Acts, Endowed Schools Acts, Mortmain Acts, and School Sites Acts, and the Board of Education Act, 1899, with the provisions of which it will be necessary for local education authorities to make themselves acquainted, if they desire to make the best use of the endowments available, in co-ordinating all forms of education within their areas.

From the short review of the growth of the law relating to education, which will be found on p. 36, it will be seen that both anterior to and concurrently with the enactment of the Elementary Education Acts, 1870 to 1900, the legislature has made numerous efforts to deal with education, in connection, chiefly, with the provision of funds and partly with the administration of endowments which might be made applicable to that purpose. Almost simultaneously with the formation of the Education Department and the commencement of the system of elementary schools under the ægis of the State, the legislature commenced to pass a series of Acts which have enabled endowments for elementary and secondary education to be placed on a greatly improved footing. In 1840 the Grammar Schools Act⁴ was passed, which enabled the Court of Chancery to

¹ See p. 80.

² See p. 891.

³ See p. 896.

⁴ See pp. 408 to 411.

extend the system of education in grammar schools, and the rights of admission thereto, and to establish schemes for the application of their revenues, so as to be 'conducive to the rendering such schools in the greatest degree efficient and useful, 'with due regard to the intentions of the founders,' and this was followed by the School Sites Act, 1841, and a series of Acts amending it,¹ which facilitated the application of land, buildings, and endowments for the purposes of the education of poor persons in religious and useful knowledge. It is under the provisions of these Acts that most of the elementary schools in England which have not been provided by local authorities have been devoted to educational purposes.

In 1853 the Charitable Trusts Act² created a body of Charity Commissioners and provided them with powers to act in relation to charities generally. In that Act the expression 'Charity' is defined to mean 'every endowed foundation and institution 'taking or to take effect in England or Wales, and coming within the meaning or 'interpretation of the Statute 43, Elizabeth, chapter 4, or as to which or the administration of the revenues or property whereof the Court of Chancery has or may 'exercise jurisdiction.' The section of the statute of Elizabeth referred to will be found set out on p. 531, and it includes, *inter alia*, lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money and stocks of money, limited, appointed, and assigned for schools of learning, free schools and scholars in universities, or for the education and preferment of orphans, or for supportation, aid, and help of young tradesmen, or handicraftsmen. The definition of Charity thus given, it will be seen, is very wide, and practically covers every school or endowment given for any educational purpose, but it was expressly provided that the Act of 1853 should not extend to the universities of Oxford, Cambridge, Durham, or London, or the colleges of the first three, nor to any institution for religious or other charitable purposes, or the auxiliary associations connected therewith, wholly maintained by voluntary contributions; it was also provided that when a charity was maintained partly by voluntary subscriptions and partly by income from endowments, the Act should extend and apply to the income from endowment only, and that no donation or bequest which might legally be applied in aid of the voluntary subscriptions, and no portion of any such donation, bequest, or voluntary subscription, set apart for a specific purpose connected with the charity, should be subject to the provisions of the Act. A board of four members was appointed,³ three of whom were paid, while the fourth was a member of the House of Commons without salary. Powers were granted to them for conducting inquiries⁴ into the condition and management of charities, and for giving their opinion or advice, so that trustees who applied for and followed it might be protected.⁵ Dealings with the *corpus* of charitable property were placed under their control,⁶ and it was enacted that no suit or other proceedings relating thereto should be initiated without their consent, excepting by persons claiming adversely to the charity, or by the Attorney-General acting *ex officio*.⁷ In certain cases, especially those relating to the appointment and removal of trustees, and the sale, leasing, or improvement of the property of charities, relief might be given in Chancery by a Judge in Chambers or, in cases where the income was less than £30, by the District Bankruptcy Courts (since abolished), or by the County Court.⁸ The Secretary of the Board and such other public officers as the Lord Chancellor should appoint were constituted official trustees of Charitable Funds.⁹ The Commissioners were empowered to frame schemes for the appropriation of charitable property to new trusts on the application of trustees or persons interested,¹⁰ but each scheme had to be confirmed by Act of Parliament.¹¹ Further powers were given to them by the Charitable Trusts Act, 1855,¹² an official trustee of charity lands was constituted,¹³ and the definition of 'charity' was made to

¹ See pp. 536 to 556.

⁴ §§9 to 14, pp. 458 to 460.

⁷ §17, p. 461.

¹⁰ §54, p. 477.

² See p. 466.

³ §16, p. 460.

⁸ §28 to 40, p. 467 to 472.

¹¹ §60, p. 479.

¹³ §15, p. 486.

³ §§1 to 8, pp. 456 to 458.

⁶ §§21 and 24 to 27, pp. 464 to 466.

⁹ §51, p. 476.

¹² Pp. 483 *seq.*

include every institution in England or Wales endowed for charitable purposes, excepting those which were expressly exempted by the preceding Act,¹ and Eton and Winchester were further expressly exempted.²

A further Act was passed in 1860, by which the Commissioners were enabled to exercise most of the powers of the Court of Chancery as to the administration of charities, provided that in cases where the income exceeded £50, an application was made to them by a majority of the trustees of the charity concerned.³ It is on this Act that the powers which have been most commonly exercised by the Charity Commissioners are based. Further provisions were made by this Act as to Orders appointing or removing trustees or establishing schemes,⁴ and as to the removal of masters or mistresses of endowed schools, and power was given to magistrates in Petty Sessions to give possession of buildings held over by persons who were certified by the Commissioners to have been duly removed,⁵ and the jurisdiction of County Courts was extended to include charities the gross income of which did not exceed £50 instead of £30, the former limit.⁶ The Charitable Trusts Act, 1869, in addition to explaining and amending the preceding Acts, gave power to a majority of trustees to deal with charity estates as if they were the whole body, and, if authorised by the Board, to take legal proceedings as if they were the sole trustees, and also authorised the Board to extend the benefit of the Acts to exempted charities on the application of the trustees thereof.

In 1861 a Royal Commission, under Lord Clarendon, was appointed to inquire into the nine principal public schools, viz.: Eton, Winchester, Westminster, Charterhouse, Harrow, Rugby, Shrewsbury, St. Paul's, and Merchant Taylors', and in 1868 the Public Schools Act was passed dealing with the first seven of these schools. In 1864 a further Commission (the Schools Inquiry Commission) was appointed to inquire into the education given in the other secondary schools; they found that there were 572 endowed secondary grammar schools at work, with a net income of £183,066, and exhibitions to the annual value of £13,897. The supply of such schools was found to be very deficient, 100 towns of 5000 or more inhabitants having no endowed grammar school at all, while there were only twelve endowed secondary schools for girls in England, and two in Wales.

In 1869 the Endowed Schools Act⁷ was passed, which provided for the creation of a board of three Commissioners to be appointed for a limited period authorised to deal with educational endowments. Educational endowment was defined to mean,⁸ 'an endowment or any part of an endowment which, or the income whereof has been made applicable, or is applied for the purposes of education at school of boys and girls, or either of them, or of exhibitions tenable at a school or an university or elsewhere, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, Letters Patent, Decree, Scheme, Order, Instrument, or other authority, and whether it has been made applicable or is applied in the shape of payment to the governing body of any school or any member thereof, or to any teacher or officer of any school, or to any person bound to teach, or to scholars in any school or their parents, or of buildings, houses or school apparatus for any school or otherwise howsoever.' The Act expressly excepted⁹ the schools mentioned in §3 of the Public Schools Act, 1868 (viz., the first seven of those named above), and the endowments thereof; any school which on the 1st January 1869 was maintained wholly or partly out of annual voluntary subscriptions, and had no endowment except school buildings, or teachers' residences, or playground or gardens attached to such buildings or residences; any school which on the 2nd August 1869 was in receipt of an annual Parliamentary grant, unless such school was a grammar school, or a school a department of which only was in receipt of such grant; any school, unless otherwise subject to the Act, which was maintained out of an endowment, the income of

¹ §48, p. 495.

⁴ §§6 to 9, p. 500 to 502.

⁷ See pp. 415 to 434.

³ §49, p. 495.

⁵ §§13 and 14, p. 502, 503.

⁶ §5, p. 416.

² §§2 to 4, pp. 499, 500.

⁸ §11, p. 502.

⁹ §8, p. 417.

which might, in the discretion of the governing body, be wholly applied to other than educational purposes; any school receiving assistance out of an endowment which might, in the discretion of the governing body of such endowment, be applied to another school; any endowment applicable and applied solely for promoting the education of ministers of any denomination, or for teaching any particular profession; or any school, unless otherwise subject to the Act, receiving assistance out of such endowment, and any school which, immediately before 1869, was solely a choristers' school. The Commissioners were given power¹ by schemes made as in the Act provided to alter the trusts affecting any educational endowment in such manner as might render it most conducive to the advancement of the education of boys and girls or either of them (the extension, so far as might be convenient, of the benefits of endowments to girls being expressly enjoined); but they were not to interfere with any endowment originally given to charitable uses less than fifty years before the 2nd August 1869, unless the governing body assented, nor with the governing body of any school maintained out of or forming part of the foundation of any cathedral or collegiate church unless the dean and chapter assented, nor with certain other schools. Various provisions² were made as to exemption of the scholars from attendance at religious worship and from religious instruction, but these provisions were not to apply³ to cathedral schools, nor to any educational endowment the scholars educated by which are required by the express terms of the original instrument of foundation or of the statutes or regulations made by the founder or under his authority in his lifetime, or within fifty years of his death, to learn or to be instructed according to the doctrines of any particular church. The Commissioners had power,⁴ with the consent of the governing body, to make applicable to educational purposes any non-educational endowments which were applicable to the following purposes: Doles, marriage portions, redemption and relief of prisoners, loans, apprenticeship fees, advancement in life or any purposes which have failed or become insignificant in comparison with the magnitude of the endowment if originally given in or before 1800 A.D., provided that regard should be had to the educational interests of persons of the same class of life or resident within the same area as those benefited in 1869, and that no open space enjoyed by the public in 1869 should be enclosed. The procedure for making schemes is dealt with by §§31 to 51, and by §52 it was provided that the Charity Commissioners should have the same power of acting on the application of the Endowed Schools Commissioners as if the application had been made by the governing body.⁵

In the following year, §75 of the Elementary Education Act, 1870,⁶ provided that in respect of all schools, or endowments of schools, which were excepted from the Endowed Schools Act, 1869, on the ground that such school was on August 2, 1869, in receipt of a parliamentary grant, the Education Department might approve schemes on the application of the governing body, which should have effect as if made under the Endowed Schools Act, 1869, and §78⁷ provided that the Education Department should be deemed to be persons interested in any elementary school to which the Charitable Trusts Acts were applicable and the endowment thereof. In 1873 the Endowed Schools Act of that year⁸ extended the application of §75 of the Elementary Education Act, 1870, to every school not being a 'grammar school'⁹ or a department of a 'grammar school' which was on the 1st September 1873 an 'elementary school,' and the average income of which for the three preceding years did not exceed £100, and also extended the exceptions contained in §19 of the Endowed Schools Act, 1869, so as to prevent the provisions as to religious instruction in that Act being applied to educational endowments originally given since 1688 A.D., if by the express terms of the regulations made by the founder, or within fifty years after his death, and since observed, it was required that the majority of the members or of the electors of the

¹ §9, p. 418.⁴ §80, p. 426.⁷ See p. 252.² §§15 and 16, p. 421.⁵ §52, p. 433.⁸ §3, p. 435.³ §19, p. 422.⁶ See p. 250.⁹ For definition, see p. 196.

governing body, or that the principal teacher, or the scholars should be members of a particular church, sect, or denomination. In the following year the powers of the Endowed Schools Commissioners were transferred to the Charity Commissioners, and the Endowed Schools Commissioners ceased to hold office. Their power to make schemes was continued at first for five years, and then from year to year, and has now, by the operation of the Board of Education Act, 1899, and the orders made thereunder, been transferred to the Board of Education. During the existence of the Endowed Schools Commission, 235 schemes were passed dealing with an annual income of £93,635, and proposals were submitted dealing with £85,000 more. A return made by the Charity Commissioners in 1892 showed that the income of educational endowments in England known at the end of 1891, available for secondary education, was £697,132 a year, and that of 1262 endowments 668 were then worked under schemes approved by the Commissioners.

The local education authority will now have command of the money which they are entitled to raise out of the rates for the purposes of higher education and of the 'whisky money' (see notes to §2 of the Education Act, 1902 p. 34), in addition to any government grants which may be earned, and it will be their duty to co-ordinate the higher education which they are thus enabled to supply with the education resulting from such of these endowments as are within their area, as well as with the education given in public elementary schools. For this purpose they will probably require to invoke the assistance of the Board of Education. It is therefore important to notice that the experiment of entrusting composite committees, on which the majority were directly appointed by the local authority, with the power of submitting schemes pursuant to the Endowed Schools Acts has been tried in Wales under the Welsh Intermediate Education Act, 1889. By that Act the powers of the Charity Commissioners of making schemes or proposals for a scheme were given to a 'joint education committee' in each county, who were required to submit a scheme or proposals for a scheme for the intermediate and technical education of the inhabitants of their county, specifying in each scheme the educational endowments within their county which in their opinion ought to be used for the purpose of such scheme.¹ The experiment has been attended with a considerable measure of success,² and will afford useful suggestions to the new local education authorities; but in considering whether it is desirable to apply to the Board of Education to frame a scheme involving alterations in any endowment, it will be necessary, whenever the power of framing the scheme is derived from the Endowed Schools Acts, to have regard to the exceptions contained in those Acts.³

In 1888 was passed the Mortmain and Charitable Uses Act⁴ which consolidated the law as to Mortmain. The local education authorities being corporations as school boards also were under the Elementary Education Act, 1870,⁵ it is essential that they should comply with the provisions of the law as to Mortmain, which, strictly speaking, relates to conveyances of lands to corporations. 'Alienation in mortmain, *in mortua manu*, is an alienation of lands or tenements to any corporation sole or aggregate, ecclesiastical or temporal.'⁶ From earliest times the alienation of lands to corporations was regarded with disfavour by the Crown and the lords of whom the lands were held, because the claims which arose on the death of individuals could not arise from the tenure of corporations, which never die, and accordingly an alienation in mortmain without licence was voidable. The Acts beginning in the reign of Edward I. in relation to alienation of lands to corporations were known as Statutes of Mortmain; a different set of enactments intended to restrain death-bed gifts of lands to charities, 'in disherison of heirs,' beginning with the Act of 9 Geo. II., being to some extent *in pari materia*, came to be known as the Mortmain Acts. The

¹ §3, p. 448.

² See note to §13, p. 454.

³ Elementary Education Act, 1870, §30, p. 229.

⁴ See vol. 2, Special Reports, 1898.

⁵ See pp. 525 to 581.

⁶ 2 Black. Comm., 268.

existing provisions of both sets of Acts are included together in the Mortmain and Charitable Uses Acts of 1888, 1891, and 1892.¹ The last of these Acts has greatly diminished the difficulties in relation to lands acquired by local authorities for purposes for which such authority is empowered by Act of Parliament to acquire land, and §23 (5) of the Education Act, 1902, has also provided further facilities for the acquisition of land for an elementary school.

As to the purposes for which the different local education authorities are entitled to acquire land, *see* note 9 to the Education Act, 1902, §1.

By means of the various Acts already mentioned considerable progress has been made in rendering educational and other charitable endowments more available for purposes of secondary education, and at the same time the amount of public money given for similar purposes from other sources has been continually growing. The local authorities under the Technical Instruction Acts, 1889 and 1891, have by this time acquired considerable experience in dealing with such grants, and in providing assistance out of the rates to schools giving technical instruction, and they have shown that they are capable of administering such funds with judgment, but it will be necessary to bear in mind a difficulty, arising in connection with the co-ordination of endowments and funds derived from less secure or permanent sources, to which the Secondary Education Commission drew attention in their report. The Commissioners observe :—

There are many unendowed schools which, in respect of their public character, will properly fall under the jurisdiction of the local authority. It ought, in our opinion, to have the power of making schemes for these schools, not, of course, under the Endowed Schools Acts, which have no application to such schools, but of its own right, subject, however, to the power of the Central Office to determine any question which may arise over such scheme between the local authority and the persons or body which previously managed the school in question.

It is a matter of some difficulty to determine the degree of permanence which should be given to the disposition by a local authority of funds other than endowments. On the one hand, there are serious objections to the plan followed in Wales, by which money applied to secondary education out of the rates or under the Local Taxation Act is treated as endowment. Checks and restrictions which may be desirable in dealing with ancient endowments are often inapplicable and unnecessary in the case of money derived from rates and taxes. The public would, not unreasonably, complain of the time required to authorise them to dispose of money raised yearly by themselves, and which they are at present accustomed to see applied under a more elastic system; while the Central Office would, to avoid being overwhelmed by the amount of business thrown upon it at the outset, seek to impose on the various schemes a degree of uniformity which would go far to counteract the decentralising policy on which this Report is founded. On the other hand much embarrassment is found to arise under the present system, out of the attempt to provide secondary schools partly by permanent endowment, partly by grants of uncertain duration. For example there is obvious risk and inconvenience in allowing the capital funds of a charity to be sunk in buildings, the utility of which will mainly depend on the continuance of a grant made from year to year. Again, it will be difficult for a local authority to appeal to the inhabitants of any locality for voluntary contributions towards the expense of establishing a school, as it may sometimes with advantage do, if there is no security that the school will be properly maintained by the successors of those who made the appeal. Nor can we overlook the value of some degree of permanence in giving dignity and authority to the local managers of public schools which may not, in a strict sense, be endowed. On a consideration of all the circumstances we have come to the conclusion that, whenever a local authority proposes to establish or reconstitute a school or institution on a permanent basis, it should propose a scheme for its government and constitution and report that scheme to the Central Office; that every such report should be duly published in the area of the local authority and that a fixed time (say one month), which might if necessary be extended, from the date of publication, should be allowed, during which an appeal might be made to the Central Office by any institution conceiving itself likely to be injuriously affected, and during which suggestions and objections might be made to the local authority itself by other persons. The local authority should have power, if it thought fit, to include in the schemes proposals for devoting part of the sums coming to it under the Local Taxation Act, or of other local funds to the maintenance of the school in such a way as to bind its successors. If the report contained no such proposals, we think that, subject to the determination of any statutory appeals and to any modifications of detail which the local authority might itself see fit to introduce, the local authority should be at liberty to give effect to its scheme without the sanction of the Central Office. Nor should further reports be required in the case of mere modifications in detail. Where,

¹ See pp. 525 to 535.

however, there were proposals intended to bind the successors of the local authority the sanction of the Central Office should be required in respect of such proposals; and a scheme so sanctioned should be binding either for a term of years to be named, or until the sanction of the Central Office to its modification or repeal had been obtained. Procedure upon the lines indicated would be simple and rapid as compared with that now required in the case of endowments. It need not be made obligatory, but the importance of the element of permanence to be so secured will, in our opinion, be sufficiently present to the minds of a local authority invested with purely educational functions and be so obviously advantageous to the localities severally interested as to lead to its frequent adoption. Another safeguard against a capricious withdrawal or variation of grants might be found in some statutory provision that the local authority shall be bound to maintain in an efficient condition the schools established or taken over by it unless it is able to show that sufficient provision has been otherwise made.

Subsequent legislation has not, up to the present time, adopted the suggestions made in the foregoing paragraph of the Commissioners' report, and the Education Act, 1902, does not directly deal with endowments applicable for purposes of higher education. It has, however, been found¹ in the last few years that governing bodies on the one hand, and the Charity Commissioners on the other, were being more and more brought into connection with the local authorities, and that governing bodies, acting very often in concert with the local authorities, were ready to invite the interference of the Commissioners by themselves applying for schemes, thereby enabling the procedure under the Charitable Trusts Acts to be adopted, without employing the initiatory powers of the Commissioners under the Endowed Schools Acts.

In 1899 was passed the Board of Education Act,² which has already been referred to, and it seems not unlikely that the transfer of the control over educational endowments to the department which also controls the administration of Parliamentary grants for education, and the duties expressly imposed on local education authorities by §2 of the Education Act, 1902, will result in a still closer co-operation between the central office, local education authorities, and governing bodies of educational endowments. The council of any county or county borough have power given to them to assist in any necessary inquiries concerning the endowments available within their respective areas by the Charity Inquiries (Expenses) Act, 1892, which provides that they may, if they think fit, pay or contribute towards the expenses of any inquiry conducted by the Charity Commissioners into any charities which are by the trusts governing their administration expressly appropriated in whole or in part for the benefit of their county or county borough or any part thereof.

The directions which should be followed in making application to the Board of Education for a scheme and the ordinary form of application for a scheme are as follows:—

DIRECTIONS FOR APPLICATION FOR SCHEME.

An Application for a Scheme under the Charitable Trusts Acts should be unconditional, as in the form below, which may be used for the purpose. Any recommendation as to the provisions desired in the Scheme should be made on a separate paper.

The application should be signed by

either—

- (i.) all the Governors or Trustees ;
- or
- (ii.) a majority of the whole body of Governors or Trustees ;
- or
- (iii.) some one authorised to sign by a resolution passed by a majority of the Governors or Trustees present at a duly constituted meeting and voting on the resolution. In this case a copy of the resolution should accompany the application.

¹ Forty-eighth Report of Charity Commissioners, p. 35.

² See pp. 891 to 895.

APPLICATION FOR SCHEME.

In every case a list of the full names, addresses, and rank or occupation of all the Governors or Trustees should be sent, with a distinguishing mark to those, who, in case (ii.), did not sign the application, and in case (iii.) were not present or did not vote for the resolution.

This is to enable the Board to satisfy themselves that the application was properly made, and to serve notice, as required by law, on those who did not sign the application, or were not parties to the resolution authorising it to be signed.

The following is the form referred to:—

FORM OF APPLICATION FOR SCHEME.

TO THE BOARD OF EDUCATION.

In the Matter of ¹
in the Parish of
in the County of

In the Matter of the Charitable Trusts Acts, 1853 to 1894; and

In the Matter of the Board of Education Act, 1899, and the Board of Education (Powers) Orders in Council, 1900 to 1902.

2 hereby apply to the Board of Education for an Order establishing a Scheme for the administration of the above-mentioned Foundation, and giving all necessary and proper incidental directions in relation thereto.

Dated this day of 190 .

¹ Insert the usual name of the Foundation, and the name of the parish, township, or place for the benefit of which it is administered.

3 I or We.

³ The applicants should sign their names here.

If the Trustees are a Corporation the Corporate Seal should be affixed.

The forms in use by the Board of Education, in cases of applications for authority to sell or to lease, and the common form of regulations for governors of educational endowments are appended to the Charitable Trusts Acts at pp. 519 to 524.

THE BOARD OF EDUCATION ACT, 1899.

62 & 63 Victoria, Chap. 33.

AN ACT to provide for the Establishment of a Board of Education for England and Wales, and for matters connected therewith. [9th August 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Establishment of Board of Education.

1.—(1.) There shall be established¹ a Board of Education charged with the superintendence of matters relating to education² in England and Wales.

(2.) The Board shall consist of a President, and of the Lord President of the Council (unless he is appointed President of the Board),³ Her Majesty's Principal Secretaries of State, the First Commissioner of Her Majesty's Treasury, and the Chancellor of Her Majesty's Exchequer.

(3.) The existing Vice-President of the Committee of the Privy Council on Education shall also be a member of the Board, but on the next vacancy in his office the office shall be abolished, and the enactments mentioned in the schedule to this Act shall be repealed.⁴

(4.) The President of the Board shall be appointed by Her Majesty, and shall hold office during Her Majesty's pleasure.

(5.) The Board shall be deemed to be established on the appointment of the President thereof.

¹ The Board of Education was established as from the 1st April 1900, the date on which it was provided (§9 (2)) that the Act should come into operation.

² The wide expression 'the superintendence of matters relating to education' must be read as subject to the limitation that there are departments of government (other than those for the transfer of whose powers to the Board of Education provision was made by §2 (2) of the Act) charged with the superintendence of certain 'matters relating to education.' Thus, Poor Law schools are under the jurisdiction of the Local Government Board, industrial and reformatory schools under that of the Home Office, and the distribution of the parliamentary grant to university colleges is under the direct control of the Treasury.

As to the powers of the Charity Commissioners and the Board of Agriculture, see §2 (2), *infra*, and the notes thereon.

³ From the 1st April 1900 to the 9th August 1902 the Lord President of the Council was President of the Board of Education.

⁴ This subsection took effect on the 9th August 1902.

Duties and Powers of Board of Education.

2.—(1.) The Board of Education shall take the place of the Education Department (including the Department of Science and Art), and all enactments and documents shall be construed accordingly.¹

(2.) It shall be lawful for Her Majesty in Council, from time to time, by order, to transfer to, or make exercisable by, the Board of Education any of the powers of the Charity Commissioners² or of the Board of Agriculture³ in matters appearing to Her Majesty to relate to education, and the order may make such provision as appears necessary for applying to the exercise of those powers by the Board of Education the enactments relating to the Charity Commissioners or to the Board of Agriculture.⁴

Provided that any question as to whether an endowment or any part of an endowment is held for or ought to be applied to educational purposes shall be determined by the Charity Commissioners.

¹ The term 'Education Department' meant 'the Lords of the Committee for the 'time being of the Privy Council appointed for Education' (Interpretation Act, 1889, §12 (7)). This Committee was established by Order in Council of the 10th April 1839, and in 1856 an Order in Council constituted the Education Department so as to include '(a) the Educational Establishment of the Privy Council Office, (b) the Establishment 'for the encouragement of science and art, now under the direction of the Board of 'Trade, and called the Department of Science and Art.' A separate charter of incorporation was, however, given to the Department of Science and Art in 1864, and, up to the commencement of the Board of Education Act, the two Departments have been (as Mr. Justice Wills—in *R. v. Cockerton*, see p. 197, *supra*—pointed out was the case at the time when the Elementary Education Act, 1870, was passed) separate in name, habitation, and constitution, and separately entrusted with public funds to be administered by each Department independently of the other.

² During the three years 1900 to 1902 effect has gradually been given to the provisions relating to a transfer of powers from the Charity Commissioners to the Board of Education by means of a series of Orders in Council, dated respectively the 7th August 1900 (see p. 396), the 24th July 1901 (see p. 399), and the 11th August 1902 (see p. 401). For the effect of these Orders, see the notes thereon in the Appendix to this Act.

³ The Board of Agriculture was established by the Board of Agriculture Act, 1889, and subsections 2 and 3 of §2 of that Act provide as follows:—

(2) The Board of Agriculture shall also undertake the collection and preparation of statistics relating to agriculture, and forestry, and may also undertake the inspection of, and reporting on, any schools which are not public elementary schools, and in which technical instruction, practical or scientific, is given in any matter connected with agriculture or forestry, and the aiding of any school which admits such inspection, and in the judgment of the Board is qualified to receive such aid, and the aiding of any system of lectures or instruction connected with agriculture or forestry, and the inspection of and reporting on any examinations in agriculture or forestry.

(3) The Board of Agriculture may also make or aid in making such inquiries, experiments, and research, and collect or aid in collecting such information as they may think important for the purpose of promoting agriculture or forestry.

The Board of Agriculture distribute a sum of about £8000 annually in aid of agricultural education, and hitherto they have confined their aid to university colleges or institutions in which advanced or specialised instruction is given. The Board also in an advisory capacity assist county councils in the development of their educational schemes, so far as these bear upon agricultural or rural science. It appears from the last annual report of the Board on the distribution of grants for agricultural education

and research, that this function of the Board is at the present time increasing in extent and importance.

No Order in Council has as yet been made for transferring the powers of the Board of Agriculture, in matters relating to education, to the Board of Education.

⁴ When the Royal Commission on Secondary Education presented their report in 1896, the functions of the central authority in relation to secondary education were distributed among four departments, namely, the Charity Commissioners, the Science and Art Department, the Education Department, and the Board of Agriculture. Subsection (1) of §2 of the Board of Education Act, and the Orders which have been made in pursuance of subsection (2), have concentrated the functions of the three first-named in the hands of a single department, which has also succeeded to the powers of the Education and Science and Art Departments in respect of elementary and technical education. In addition to the indirect effects which inevitably attend such a concentration, the sphere of the operations of the central authority has also been extended (1) by the new power given to it by §3 of the Act to inspect any school supplying secondary education and desiring to be so inspected, and (2) by the position in which it has been placed, by the Orders made under §4 of the Act, in relation to the regulations for the registration of teachers.

Inspection of Secondary Schools.

3.—(1.) The Board of Education may by their officers, or, after taking the advice of the consultative committee¹ hereinafter mentioned, by any university or other organisation,² inspect any school supplying secondary education and desiring to be so inspected, for the purpose of ascertaining the character of the teaching in the school and the nature of the provisions made for the teaching and health of the scholars, and may so inspect the school on such terms as may be fixed by the Board of Education with the consent of the Treasury :³ Provided that the inspection of schools established by scheme under the Welsh Intermediate Education Act, 1889, shall, subject to regulations made by the Treasury under section nine of that Act, be conducted as heretofore by the Central Welsh Board for Intermediate Education,⁴ and that the said Board shall be recognised as the proper organisation for the inspection of any such schools as may be desirous of inspection under this section.

(2.) The council of any county or county borough may out of any money applicable for the purposes of technical education pay or contribute to the expenses of inspecting under this section any school within their county or borough.⁵

¹ As to the Consultative Committee, see §4 and the note thereon.

² The following organisations have been recognised by the Board as agencies to conduct inspections under the Act, subject to the condition that the administrative part of the inspections shall be conducted by an officer of the Board :—

- (1) University of Oxford.
- (2) University of Cambridge.
- (3) Victoria University.
- (4) City and Guilds of London Institute (in Technological Subjects, Manual Instruction, and Domestic Economy only).
- (5) University of Birmingham.
- (6) University of London.

³ The regulations of the Board of Education with regard to the inspection of schools under this section are laid down in §42 of the Regulations for Secondary Day Schools (p. 647).

It is also to be noted that any school applying for recognition under Division A or Division B of those Regulations (§§11 to 37, pp. 638 to 645) will be deemed to have applied for inspection under this Act (see §§12 and 36).

⁴ See note 4 to §3 of the Welsh Intermediate Education Act, 1889 (p. 449).

⁵ The Board of Education stated in their annual report for the year 1900 to 1901, that the power conferred on county and county borough councils by this subsection had already been exercised, and seemed likely to contribute largely to the development of the system of inspection established by the Act.

As to the money which is applicable for the purposes of 'technical education,' see §2 of the Education Act, 1902, p. 30, and the note thereon.

Consultative Committee.

4. It shall be lawful for Her Majesty in Council, by Order, to establish a consultative committee¹ consisting, as to not less than two-thirds, of persons qualified to represent the views of universities and other bodies interested in education, for the purpose of—

- (a) framing, with the approval of the Board of Education, regulations for a register of teachers, which shall be formed and kept in manner to be provided by Order in Council:² Provided that the register so formed shall contain the names of the registered teachers arranged in alphabetical order, with an entry in respect to each teacher showing the date of his registration, and giving a brief record of his qualifications and experience; and
- (b) advising the Board of Education on any matter referred to the committee by the Board.

¹ For the Order in Council, dated the 7th August 1900, providing for the establishment of a Consultative Committee, see p. 665.

² For the Teachers' Registration regulations (Order in Council of 6th March, 1902), see p. 667.

Orders to be laid before Parliament.

5. The draft of any order proposed to be made under this Act shall be laid before each House of Parliament for not less than four weeks during which that House is sitting, before it is submitted to Her Majesty in Council.

Staff, Remuneration, and Expenses.

6.—(1.) The Board of Education may appoint such secretaries, officers, and servants as the Board may, with the sanction of the Treasury, determine.

(2.) There shall be paid, out of moneys provided by Parliament, to the President of the Board, unless he holds another salaried office, such annual salary not exceeding two thousand pounds, and to the secretaries, officers, and servants of the Board such salaries or remuneration as the Treasury may determine.

Style, Seal, and Proceedings of Board of Education.

7.—(1.) The Board of Education may sue and be sued and may for all purposes be described by that name.

(2.) The Board shall have an official seal, which shall be officially and judicially noticed, and that seal shall be authenticated by the signature of the President or some member of the Board, or of a secretary, or of some person authorised by the President or some member of the Board to act on behalf of a secretary.

(3.) Every document purporting to be an instrument issued by the Board of Education, and to be sealed with the seal of the Board, authenticated in manner provided by this Act, or to be signed by a secretary or any person

authorised by the President or some member of the Board to act on behalf of a secretary, shall be received in evidence, and be deemed to be such an instrument without further proof, unless the contrary is shown.

(4.) A certificate signed by the President or any member of the Board of Education that any instrument purporting to be made or issued by the President or some member of the Board is so made or issued shall be conclusive evidence of the fact.

Power for President or Secretary to sit in Parliament.

8.—(1.) The office of President of the Board of Education shall not render the person holding it incapable of being elected to, or of voting in, the Commons House of Parliament, and shall be deemed to be an office included in Schedule H. of the Representation of the People Act, 1867; in Schedule H. of the Representation of the People (Scotland) Act, 1868; in Schedule E. of the Representation of the People (Ireland) Act, 1868; and in Part I. of the Schedule of the Promissory Oaths Act, 1868.

(2.) After the abolition of the office of the Vice-President of the Committee of the Privy Council on Education, one of the secretaries of the Board of Education shall not by reason of his office be incapable of being elected to or of voting in the Commons House of Parliament.

Extent, Commencement, and Short Title.

9.—(1.) This Act shall not extend to Scotland or Ireland.

(2.) This Act shall come into operation on the first day of April one thousand nine hundred.

(3.) This Act may be cited as the Board of Education Act, 1899.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
19 & 20 Vict. c. 116, .	The Education Department Act, 1856.	The whole Act.
21 & 22 Vict. c. 97, .	The Public Health Act, 1858.	In section seven the words 'the Vice-President of the Committee of the said Privy Council on Education being one of them.'

APPENDIX

TO THE

BOARD OF EDUCATION ACT, 1899.

THE BOARD OF EDUCATION (POWERS) ORDER IN COUNCIL, 1900.

At the Court at Osborne House, Isle of Wight, the 7th day
of August, 1900.

PRESENT :

The Queen's Most Excellent Majesty in Council.

WHEREAS by section two of the Board of Education Act, 1899, it is enacted that, subject to the provisions of that section, it shall be lawful for Her Majesty in Council, from time to time, to transfer to, or make exercisable by, the Board of Education, any of the powers of the Charity Commissioners in matters appearing to Her Majesty to relate to education, and that the order may make such provision as appears necessary for applying to the exercise of those powers by the Board of Education the enactments relating to the Charity Commissioners.

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the Board of Education Act, 1899, and of all other powers enabling Her in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1. The powers of—

- (a) inquiring into charities ; and
- (b) requiring accounts and statements to be rendered and answers to questions to be returned ; and
- (c) requiring copies of and extracts from documents to be furnished ; and
- (d) searching records ; and
- (e) requiring the attendance of witnesses and the production of documents ; and
- (f) examining witnesses on oath and administering oaths

conferred on the Charity Commissioners and their assistant commissioners and officers by the enactments specified in Part I. of the first schedule to this Order, or by any scheme under the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, may, so far as they relate to trusts for educational purposes, be exercised by the Board of Education and their officers concurrently with the Charity Commissioners and their assistant commissioners and other officers, and accordingly those enactments and schemes and the enactments specified in Part II. of that schedule shall apply with the modifications set forth in the second schedule to this Order.

2.—(1.) There shall be transferred to the Board of Education—

- (a) all powers conferred on the Charity Commissioners by any scheme made under the Endowed Schools Acts, 1869 to 1889, or any of them, and regulating an endowment held for, or applicable to, educational purposes in Wales or the county of Monmouth, or by any scheme amending any such scheme, except such of those powers as relate to the vesting or transfer of any land or funds of the endowment in, to, or from the

official trustee of charity lands or the official trustees of charitable funds ; and

- (b) all powers conferred on the Charity Commissioners by the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, so far as those powers are exercisable in respect of any endowment so regulated.

(2.) Provided that—

- (a) land or funds belonging to any such endowment shall not be vested or transferred in, to, or from the official trustee of charity lands or the official trustees of charitable funds except by order of the Charity Commissioners ; and

- (b) the powers of the Charity Commissioners with respect to—

- (i.) the appointment and removal of trustees, or otherwise in relation to the constitution of a governing body, of an endowment held partly for educational purposes in Wales and the county of Monmouth and partly for other purposes ; and

- (ii.) the property of an endowment the income of which is applicable partly to educational purposes in Wales and the county of Monmouth and partly for other purposes, shall not be transferred to the Board of Education unless the property of the endowment is administered by a governing body established for educational purposes, and any question whether a governing body was established for educational purposes shall be determined by the Charity Commissioners.

(3.) For the purposes of the transfer effected by this section, the provisions of the Charitable Trusts Acts, 1853 to 1894, and the Endowed Schools Acts, 1869 to 1889, shall apply with the modifications and adaptations set forth in the second schedule to this Order, and in the schemes conferring powers transferred by this section the provisions relating to those powers shall have effect as if anything required to be done to, by, or in relation to the Charity Commissioners, were required to be done to, by, or in relation to the Board of Education, and any rules, regulations, or forms made, approved, or prescribed by the Charity Commissioners under any such scheme shall continue in force until varied, revoked, or superseded by new rules, regulations, or forms made in accordance with the provisions of the scheme as amended by this Order.

3. This Order may be cited as the Board of Education (Powers) Order in Council, 1900, and shall come into operation on the first day of November one thousand nine hundred.

A. W. FITZROY.

FIRST SCHEDULE.

ENACTMENTS APPLIED.

PART I.

The Charitable Trusts Act, 1853 (16 & 17 Vict. c. 137), §§9, 10, 11, and 12, as amended by the Charitable Trusts Act, 1887 (50 & 51 Vict. c. 49).

The Charitable Trusts Amendment Act, 1855 (18 & 19 Vict. c. 124), §§ 6 and 7, as amended by the Charitable Trusts Act, 1887 (50 & 51 Vict. c. 49).

PART II.

The Charitable Trusts Act, 1853, §§13, 14, and 15, and the Charitable Trusts Amendment Act, 1855, §§8 and 9, as amended by the Charitable Trusts Act, 1887.

SECOND SCHEDULE.

MODIFICATIONS AND ADAPTATIONS.

References to the Board of Charity Commissioners shall be construed as references to the Board of Education.

References to a Charity Commissioner shall be construed as references to a member of the Board of Education.

References to Assistant Charity Commissioners shall be construed as references to inspectors and other officers of the Board of Education.

References to the secretary and other officers of the Charity Commissioners shall be construed as references to the secretary and other officers of the Board of Education.

The Board of Education shall before finally settling the draft of any amending scheme framed under the Endowed Schools Acts, 1869 to 1889, cause all such steps to be taken as are by those Acts required to be taken before any such scheme is submitted for approval to the Committee of Council on Education, and such final settlement shall take the place of the approval required by those Acts, and accordingly the Board of Education shall cause the scheme to be published and circulated in such manner, and together with such notice, as is required by section thirteen of the Endowed Schools Act, 1873, and the like proceedings may be taken with respect to a scheme so settled as may under the Endowed Schools Acts, 1869 to 1889, be taken with respect to a scheme approved by the Committee of Council on Education.

The report required by section sixteen of the Endowed Schools Act, 1873, to be made to the Committee of Council on Education shall be made to Her Majesty the Queen.

NOTE.

According to the Report of the Board of Education for the year 1899-1900, the objects of this order were twofold: first, to confer on the Board of Education the exercise concurrently with the Charity Commissioners of certain powers conferred on those Commissioners by the Charitable Trusts Acts and by schemes under the Endowed Schools Acts in regard to educational endowments in England and Wales; and, secondly, to effect a complete transference from the Commissioners to the Board of powers relating to a certain class of educational endowments within a given area, namely, those regulated by schemes under the Endowed Schools Acts in Wales and Monmouth.

It was felt to be desirable, in order that the inspection of any school by the Board of Education under the Board of Education Act might be effective, that the Board should possess powers of administrative inspection, such as that of inquiring into the financial position of the school, the statutes or other regulations under which it is governed, and the powers and duties of the governing body. The first clause of the Order in Council was designed to enable the Board of Education to institute such inquiries for the purposes of their own administration. It also, when read in connection with the third section of the Board of Education Act, enabled the Board, by arrangement with the Charity Commissioners, to undertake the complete inspection, both administrative and educational, of schools which might desire it. One of the main objects of such an arrangement, which it was intended should in each case be made between the Board and the Commissioners, was the avoidance of all unnecessary duplication of work which might otherwise have been caused by the overlapping jurisdiction of the two Departments, and by their possessing concurrent powers.

The second clause of the Order, providing for the transfer to the Board, with certain exceptions, of all powers at present exercised by the Charity Commissioners with regard to educational endowments regulated by scheme within the area of Wales or Monmouth, was designed with a view to enabling the Board to obtain experience of the administration of these powers in a limited area, so that it might be prepared for the future assumption of like powers throughout the whole country. Wales and Monmouth were chosen for this purpose because, owing to the Welsh Intermediate Education Act, that part of the country already possessed a local organisation for Secondary Education, with which the central authority could at once enter into relations.

THE BOARD OF EDUCATION (POWERS) ORDER IN COUNCIL, 1901.

At the Court at St. James's, the 24th day of July, 1901.

PRESENT :

The King's Most Excellent Majesty in Council.

WHEREAS by section two of the Board of Education Act, 1899, it is lawful for His Majesty in Council, subject to the provisions of that section, from time to time, to transfer to the Board of Education any of the powers of the Charity Commissioners in matters appearing to His Majesty to relate to education, and the order may make such provision as appears necessary for applying to the exercise of those powers by the Board of Education the enactments relating to the Charity Commissioners.

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to Him by the Board of Education Act, 1899, and of all other powers enabling Him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1.—(1.) The powers conferred on the Charity Commissioners by the Charitable Trusts Acts, 1853 to 1894, and by the Endowed Schools Acts, 1869 to 1889, to frame, approve, certify, establish, and amend schemes shall, so far as those powers are exercisable in respect of any endowment held solely for educational purposes in England and Wales, and so far as they have not already been transferred to the Board of Education, be transferred to that Board.

Provided that a scheme made by the Board of Education shall not contain provisions requiring or authorising any land or funds belonging to any such endowment to be vested or transferred in, to, or from the Official Trustee of Charity Lands or the Official Trustees of Charitable Funds otherwise than by order of the Charity Commissioners.

(2.) Where the Charity Commissioners, in exercise of the powers conferred on them by the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, determine, by scheme or otherwise, in respect of any endowment held partly for educational purposes and partly for other purposes, what part of the endowment is held for educational purposes, that part shall, for the purposes of this Order be treated as an educational endowment held solely for educational purposes.

(3.) For the purposes of the transfer effected by this section the provisions of the Charitable Trusts Acts, 1853 to 1894, and the Endowed Schools Acts, 1869 to 1889, shall apply with the modifications and adaptations set forth in the schedule of this Order.

(4.) In any scheme made before the commencement of this Order relating to an endowment held solely for educational purposes, provisions empowering the Charity Commissioners to make amending schemes and to make rules, regulations, and forms, and any rules, regulations, and forms made by the Charity Commissioners, before the commencement of this Order in pursuance of any such power, shall have effect as if in those provisions and in those rules, regulations, and forms, references to the Board of Education were substituted for references to the Charity Commissioners.

2. Provisions in any scheme made before the commencement of this Order empowering the Charity Commissioners by order to direct the manner in which a school shall be examined in any year, or directing the governing body to send a copy of the examiner's report to the Charity Commissioners, shall have effect as if in any such scheme references to the Board of Education had been substituted for references to the Charity Commissioners.

3. This Order may be cited as the Board of Education (Powers) Order in Council, 1901, and shall come into operation on the 1st day of September, 1901.

A. W. FITZROY.

SCHEDULE.

MODIFICATIONS AND ADAPTATIONS.

In such of the provisions of the Charitable Trusts Acts, 1853 to 1894, and of the Endowed Schools Acts, 1869 to 1889, as relate to the framing, approving, certifying, establishing, and amending of schemes, or to the powers and duties and proceedings incidental thereto or consequential thereon, for references to the Charity Commissioners and their officers shall be substituted references to the Board of Education and their officers respectively.

The Board of Education shall, before finally settling the draft of any scheme framed under the Endowed Schools Acts, 1869 to 1889, or any of them, cause all such steps to be taken as are by those Acts required to be taken before any such scheme is submitted for approval to the Committee of Council on Education, and such final settlement shall take the place of the approval required by those Acts, and accordingly the Board of Education shall cause the scheme to be published and circulated in such manner and together with such notice as is required by section thirteen of the Endowed Schools Act, 1873, and the like proceedings may be taken with respect to a scheme so settled as may under the Endowed Schools Acts, 1869 to 1889, be taken with respect to a scheme approved by the Committee of Council on Education.

The report required by section sixteen of the Endowed Schools Act, 1873, to be made to the Committee of Council on Education shall be made to His Majesty the King.

NOTE.

¹ The powers transferred to the Board of Education by this Order were those previously exercised by the Charity Commissioners for the framing of schemes, under the Endowed Schools Acts and the Charitable Trusts Acts respectively, in the case of endowments in England and Wales applicable solely to educational purposes. The effect of this transfer, so far as Wales and Monmouthshire were concerned, was to extend the jurisdiction of the Board for the making of schemes to educational endowments not already regulated by schemes under the Endowed Schools Acts, 1869-89. The Commissioners retained their powers in respect of endowments applicable partly to educational and partly to other purposes until such endowments were duly apportioned by them between the two, when the educational portion so severed passed automatically, so far as powers to make or amend schemes were concerned, under the jurisdiction of the Board. Provision was also made in the Order for the substitution of the Board for the Charity Commissioners as the authority to deal with certain minor details incidental to the working of schemes, but the general jurisdiction of the Commissioners in the administration of educational endowments was not affected by this Order.

The following extract from the Forty-ninth Report of the Charity Commissioners explains the course taken as to mixed endowments:—

The transfer of proceedings dealing with the establishment of schemes for endowments other than those constituting parts of mixed endowments has been simple; and since the order came into operation we have transferred in many such cases the correspondence relating thereto, either on a reference to us by the Board of Education or on our own initiative. On the other hand, the consideration of mixed endowments with reference to the terms of the proviso in §2(2) of the Board of Education Act, and §1(2) of the Order, has occupied a large share of our time and attention, and has raised questions of considerable difficulty.

The course which we have adopted in the process of determination is as follows:—

Where it has appeared to us that a declaration of the existing trusts, and not an alteration of them, is required, we have considered it unnecessary to proceed by way of scheme; and have held that a less formal document, such as an order, or a letter addressed to the Board of Education, or a certified copy of a minute of our Board, is sufficient. In cases where it has not appeared to us that such a declaration is sufficient, we have considered it necessary to proceed by scheme under the Charitable Trusts Acts or the Endowed Schools Acts.

In all cases where a scheme has been considered necessary, we have arranged, before the completion of the proceedings, to furnish the Board of Education with a copy of the scheme, and to invite their observations on its provisions. But we propose, as a rule, to limit such scheme to apportionment, to be carried out, if possible, under the Charitable Trusts Acts, and to leave to the Board of Education the question whether any and what further scheme should be made under the Endowed Schools Acts or otherwise for the regulation of the educational part of the endowment so apportioned.

In the course of our proceedings for determination under the Act and Order we have had to consider in several instances the case of endowments in which the trusts for educational purposes and for other purposes are so blended as to be indistinguishable except by scheme; and, inasmuch as it is not always possible or convenient to establish schemes in such cases, some of these endowments remain within our jurisdiction.

THE BOARD OF EDUCATION (POWERS) ORDER IN COUNCIL, 1902.

At the Court at Buckingham Palace, the 11th day of August, 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

WHEREAS by section two of the Board of Education Act, 1899, it is lawful for His Majesty in Council, subject to the provisions of that section, from time to time, to transfer to the Board of Education any of the powers of the Charity Commissioners in matters appearing to His Majesty to relate to education, and the Order may make such provision as appears necessary for applying to the exercise of those powers by the Board of Education the enactments relating to the Charity Commissioners :

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to him by the Board of Education Act, 1899, and of all other powers enabling him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1. All powers (except the powers of appointing the Official Trustees of Charitable Funds, and of making orders for vesting or transferring lands or funds, in, to, or from the Official Trustee of Charity Lands or the Official Trustees of Charitable Funds) conferred on the Charity Commissioners and their officers (except the said Official Trustees), by
 - (a) the enactments specified in the Schedule hereto, or any order, scheme, rule, regulation, form, or other instrument made under any of them : and
 - (b) any other enactment, charter, deed, will, order, scheme, rule, regulation, form, or other instrument,

shall, so far as those powers relate to endowments held solely for educational purposes, and so far as they have not been transferred to the Board of Education, be transferred to that Board.

- 2.—(1.) For the purpose of the transfer effected by this Order,—
 - (a) In all enactments and instruments, provisions relating to the powers transferred shall be construed as if references to the Charity Commissioners and their officers, except the said Official Trustees, were references to the Board of Education and their officers, and shall have effect as if everything required to be done to, by, or in relation to the Charity Commissioners and their officers, except the said Official Trustees, were required to be done to, by, or in relation to the Board of Education and their officers.
 - (b) The report required by section sixteen of the Endowed Schools Act, 1873, to be made to the Committee of Council on Education shall be made to His Majesty the King.
- (2.) Where the Charity Commissioners, in exercise of the powers conferred on them by the Charitable Trusts Acts, 1853 to 1894, or the Endowed Schools Acts, 1869 to 1889, determine, by scheme or otherwise, in respect of any endowment held partly for educational purposes and partly for other purposes, what part of the endowment is held for educational purposes, that part shall, for the purposes of this Order, be treated as an educational endowment held solely for educational purposes.
3. This Order shall come into operation on the 1st day of October 1902, and may be cited as the Board of Education (Powers) Order in Council, 1902, and the Board of Education (Powers) Order in Council, 1900, the Board of Education (Powers) Order in Council, 1901, and this Order may be cited together as the Board of Education (Powers) Orders in Council, 1900 to 1902.

A. W. FITZROY.

SCHEDULE.

16 & 17 Vict. c. 137	The Charitable Trusts Acts, 1853 to 1894.
18 & 19 Vict. c. 124	
23 & 24 Vict. c. 136	
25 & 26 Vict. c. 112	
32 & 33 Vict. c. 110	
50 & 51 Vict. c. 49	
54 & 55 Vict. c. 17	
57 & 58 Vict. c. 35	
32 & 33 Vict. c. 56	
36 & 37 Vict. c. 87	
37 & 38 Vict. c. 87	The Endowed Schools Acts, 1869, 1873, and 1874.
17 & 18 Vict. c. 112	
21 & 22 Vict. c. 71	
23 & 24 Vict. c. 134	The Literary and Scientific Institutions Act, 1854.
35 & 36 Vict. c. 24	The Bishops' Trusts Substitution Act, 1858.
45 & 46 Vict. c. 21	The Roman Catholic Charities Act, 1860.
51 & 52 Vict. c. 42	The Charitable Trustees Incorporation Act, 1872.
54 & 55 Vict. c. 73	The Places of Worship Sites Amendment Act, 1882.
55 & 56 Vict. c. 11	The Mortmain and Charitable Uses Act, 1888.
55 & 56 Vict. c. 29	The Mortmain and Charitable Uses Act, 1891.
46 & 47 Vict. c. 61	The Mortmain and Charitable Uses Amendment Act, 1892.
45 & 46 Vict. c. 80	The Technical and Industrial Institutions Act, 1892.
50 & 51 Vict. c. 48	The Agricultural Holdings Act, 1883.
53 & 54 Vict. c. 65	The Allotments Extension Act, 1882.
45 & 46 Vict. c. 50	The Allotments Acts, 1887 and 1890.
46 & 47 Vict. c. 18	
55 & 56 Vict. c. 53	The Municipal Corporations Act, 1882.
56 & 57 Vict. c. 73	The Municipal Corporations Act, 1883.
62 & 63 Vict. c. 14	The Public Libraries Act, 1892.
	The Local Government Act, 1894.
	The London Government Act, 1899.

NOTE.

¹ The cumulative effect of this and the two preceding Orders is that all the powers of the Charity Commissioners which related to endowments held, or parts of endowments determined by them to be held, solely for educational purposes, conferred upon them by, or arising under, any of the Acts mentioned in the Schedule to the Order of the 11th August 1902, or the Welsh Intermediate Education Act, 1889, or any other Act, including local Acts, are (with the exception of the powers of appointing the official trustees of charitable funds, and of making orders for vesting or transferring lands or funds, in, to, or from the official trustee of charity lands or the official trustees of charitable funds) transferred to, and exercisable by, the Board of Education.

In addition to the powers so transferred, the Board of Education has always been able, under §75 of the Elementary Education Act, 1870, to exercise analogous powers in respect of any school excepted from the general operation of the Endowed Schools Act, 1869, by §8 (3) of that Act, or of any school so excepted (other than a school in Wales or Monmouthshire) by §3 of the Endowed Schools Act, 1873. In respect of the schools thus excepted which came within the Charitable Trusts Acts, the Charity Commissioners retained their ordinary jurisdiction under those Acts concurrently with the jurisdiction of the Board of Education till their powers were transferred to that Board, by the Orders made under the Board of Education Act.

THE GRAMMAR SCHOOLS ACT, 1840.

3 & 4 Victoria, Chap. 77.

AN ACT for improving the Condition and extending the Benefits of Grammar Schools. [7th August 1840.]

WHEREAS there are in England and Wales many endowed Schools, both of Royal and Private Foundation, for the Education of Boys or Youth wholly or principally in Grammar; and the Term 'Grammar' has been construed by Courts of Equity as having reference only to the dead Languages, that is to say, Greek and Latin: And whereas such Education, at the Period when such Schools, or the greater Part, were founded, was supposed not only to be sufficient to qualify Boys or Youth for Admission to the Universities, with a view to the learned Professions, but also necessary for preparing them for the Superior Trades and Mercantile Business: And whereas from the Change of Times and other Causes such Education, without Instruction in other Branches of Literature and Science, is now of less Value to those who are entitled to avail themselves of such charitable Foundations, whereby such Schools have, in many Instances, ceased to afford a substantial Fulfilment of the Intentions of the Founders; and the System of Education in such Grammar Schools ought therefore to be extended and rendered more generally beneficial, in order to afford such Fulfilment; but the Patrons, Visitors, and Governors thereof are generally unable of their own Authority to establish any other System of Education than is expressly provided for by the Foundation, and Her Majesty's Courts of Law and Equity are frequently unable to give adequate Relief, and in no Case but at considerable Expense: And whereas in consequence of Changes which have taken place in the Population of particular Districts it is necessary, for the Purpose aforesaid, that in some Cases the Advantages of such Grammar Schools should be extended to Boys other than those to whom by the Terms of the Foundation or the existing statutes the same is now limited, and that in other Cases some Restriction should be imposed, either with reference to the total Number to be admitted into the School, or as regards their Proficiency at the Time when they may demand Admission; but in this respect also the said Patrons, Visitors, and Governors, and the Courts of Equity, are frequently without sufficient Authority to make such Extension or Restriction: And whereas it is expedient that in certain Cases Grammar Schools in the same Place should be united: And whereas no Remedy can be applied in the Premises without the Aid of Parliament: Be it therefore declared and enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, that

Courts of Equity empowered, whenever a Question comes before them, to make Decrees or Orders extending the System of Education and the Right of Admission into any School, and to establish Schemes for the Application of its Revenues, having due Regard to the Intentions of the Founder.

Whenever, after the passing of this Act, any Question may come under Consideration in any of Her Majesty's Courts of Equity concerning the System of Education thereafter to be established in any Grammar School, or the Right of Admission into the same, whether such Question be already pending, or whether the same shall arise upon any Information, Petition, or other Proceedings which may be now or at any Time hereafter filed or instituted, for whatever Cause the same may have been or may be instituted, according to the ordinary Course of Proceedings in Courts of Equity or under the Provisions of this Act, it shall be lawful for the Court to make such Decrees or Orders as to the said Court shall seem expedient, as well for extending the System of Education to other useful Branches of Literature and Science in addition to or (subject to the Provisions herein-after contained) in lieu of the Greek and Latin Languages, or such other Instruction as may be required by the Terms of the Foundation or the then existing Statutes, as also for extending or restricting the Freedom or the Right of Admission to such School, by determining the Number or the Qualifications of Boys who may thereafter be admissible thereto, as free Scholars or otherwise, and for settling the Terms of Admission to and Continuance in the same, and to establish such Schemes for the Application of the Revenues of any such Schools as may in the Opinion of the Court be conducive to the rendering or maintaining such Schools in the greatest Degree efficient and useful, with due Regard to the Intentions of the respective Founders and Benefactors, and to declare at what Period and upon what Event such Decrees or Orders, or any Directions contained therein, shall be brought into operation, and that such Decrees and Orders shall have Force and Effect notwithstanding any Provisions contained in the Instruments of Foundation, Endowment, or Benefaction, or in the then existing Statutes: Provided always, that in case there shall be any special Visitor appointed by the Founder, or other competent Authority, Opportunity shall be given to such Visitor to be heard on the Matters in question, in such Manner as the Court shall think proper, previously to the making such Decrees or Orders.¹

¹ By the Endowed Schools Act, 1869, §8 (3) (*see* p. 417) grammar schools as defined by this Act which were in receipt of a Parliamentary grant were expressly excepted out of the reservation of schools in receipt of such a grant on August 2, 1869, from the operation of that Act: and by the Endowed Schools Act, 1873, §3 (p. 435) they were also excepted from the extension of that reservation.

The Endowed Schools Act, 1874, §6 (*see* p. 445) enacted that during the continuance of the powers of making schemes under the Endowed Schools Act a court or judge shall not with respect to any endowed school which can be dealt with under those Acts make any scheme or appoint any new trustees without the consent of the Education Department, and so long as the power of making schemes under those Acts continues, it is improbable, having regard to the ample powers now possessed by the Board of Education (*see* p. 401), that such consent will be given.

Before making such Decrees the Courts shall consider the Intentions of the Founders, the State of School, etc.

2. Provided always, and be it enacted, That in making any such Decree or Order the Court shall consider and have regard to the Intentions of the

Founders and Benefactors of every such Grammar School, the Nature and Extent of the Foundation and Endowment, the Rights of Parties interested therein, the Statutes by which the same has been hitherto governed, the Character of the Instruction theretofore afforded therein and the existing State and Condition of the said School, and also the Condition, Rank, and Number of the Children entitled to and capable of enjoying the Privilege of the said School, and of those who may become so capable if any extended or different System of Education, or any Extension of the Right of Admission to the said School, or any new Statutes, shall be established.

Court not to dispense with the Principal Objects, or the Qualifications required, unless Revenues are insufficient.

3. Provided also, and be it enacted, That, unless it shall be found necessary from the Insufficiency of the Revenues of any Grammar School, nothing in this Act contained shall be construed as authorising the Court to dispense with the teaching of Latin and Greek, or either of such Languages, now required to be taught, or to treat such Instruction otherwise than as the principal Object of the Foundation; nor to dispense with any Statute or Provision now existing, so far as relates to the Qualification of any Schoolmaster or Under Master.

Standard of Admission not to be lowered where Greek and Latin is retained.

4. Provided also, and be it enacted, That in extending, as hereinbefore provided, the System of Education or the Right of Admission into any Grammar School in which the teaching of Greek or Latin shall be still retained, the Court shall not allow of the Admission of Children of an earlier Age or of less Proficiency than may be required by the Foundation or existing Statutes, or may be necessary to show that the Children are of Capacity to profit by the Kind of Education designed by the Founder.

Where the Teaching of Greek and Latin is dispensed with, analogous Instruction to be substituted, etc.

5. Provided also, and be it enacted, That whenever, on account of the Insufficiency of the Revenues of any Grammar School, the Court shall think fit to dispense with the teaching of Greek or Latin, the Court shall prescribe such a Course of Instruction, and shall require such Qualifications in the Children at the Period of their Admission, as will tend to maintain the Character of the School as nearly as, with reference to the Amount of the Revenues, it may be analogous to that which was contemplated by the Founder; and that whenever, on the like account, the Court shall think fit to dispense with any Statute or Provision as far as relates to the Qualification of any Schoolmaster or Under Master, the Court shall substitute such Qualification as will provide for every Object implied in the original Qualification, which may be capable of being retained notwithstanding such Insufficiency of the Revenues.

Qualifications of new Schoolmasters and Right of Appointment regulated.

6. Provided also, and be it enacted, That in case the Appointment of any additional Schoolmaster or Under Master shall be found necessary for the

Purpose of carrying the Objects of this Act into execution, the Court shall require the same Qualification in such new Schoolmaster or Under Master respectively as may be required by the existing Statutes in the present Schoolmaster or Under Master, except such as may be wholly referable to their Capability of giving Instruction in any particular Branch of Education; but that every other Qualification implied in the Qualification of the original Schoolmaster or Under Master, and capable of being retained, shall be retained and required in such new Schoolmaster or Under Master; and the Court shall also in such Case declare in whom the Appointment of such new Schoolmaster or Under Master shall be vested, so as to preserve as far as may be the existing Rights of all Parties with regard to Patronage.

Schools to be Grammar Schools, though Greek and Latin dispensed with, and Masters subject to the Ordinary.

7. Provided also, and be it enacted, That although under the Provisions hereinbefore contained the teaching of Greek or Latin in any Grammar School may be dispensed with, every such School, and the Masters thereof, shall be still considered as Grammar Schools and Grammar Schoolmasters, and shall continue subject to the Jurisdiction of the Ordinary as heretofore; and that no Person shall be authorised to exercise the Office of Schoolmaster or Under Master therein without having such Licence, or without having made such Oath, Declaration, or Subscription as may be required by Law of the Schoolmasters or Under Masters respectively of other Grammar Schools.

Extension of Right of Admission not to prejudice existing Rights.

8. Provided also, and be it enacted, That whenever the Court shall think fit to extend the Freedom of or the Right of Admission into any Grammar School, such Extension shall be so qualified by the Court that none of the Boys who are by the Foundation or existing Statutes entitled to such Privilege shall be excluded, by the Admission of other Boys into the said School, either from such School itself or from Competition for any Exhibition or other Advantage connected therewith.

Where several Schools are in one Place and the Revenues of any are insufficient, they may be united.—Consents necessary to Union.

9. And be it enacted, That in case there shall be in any City, Town, or Place any Grammar School or Grammar Schools, the Revenues of which shall of themselves be insufficient to admit of the Purposes of their Founder or Founders being effected, but which Revenues if joined to the Revenues of any other Grammar School or Grammar Schools in the same City, Town, or Place would afford the Means of effecting the Purposes of the Founders of such several Schools, it shall be lawful for the Court of Chancery to direct such Schools to be united, and the revenues of the Schools so united to be applied to the Support of One School to be formed by such Union, and which shall be carried on according to a Scheme to be settled for that Purpose under the Direction of the said Court: Provided always, that before Application shall be made to the Court to direct such Union the Consent of the Visitor, Patron, and Governors of every School to be affected thereby shall be first obtained.

Present Schoolmasters not to be affected, but to be at liberty to resign on receiving Pensions.

10. Provided always, and be it enacted, That no new Statutes affecting the Duties or Emoluments of any Schoolmaster or Under Master shall be brought into operation as regards any such Master who shall have been appointed previously to the passing of this Act without his Consent in Writing; but that in case any such Schoolmaster or Under Master as last aforesaid shall be unwilling to give such Consent as aforesaid, and shall be desirous or willing to resign his Office on receiving a retiring Pension, it shall be lawful for the Governors, if there be any competent to act, or if there be no such Governors, for the Visitor, to assign to such Master such Pension as to them or him (as the Case may be) shall seem reasonable from the Time of his Resignation, which Pension, if approved as hereinafter mentioned, the Trustees of the said School are hereby authorised and required to pay to him, or his Order, according to the Terms of such Assignment.

How new Appointment of Master to be made.

11. And be it enacted, That any Schoolmaster appointed in any Grammar School after the passing of this Act shall receive his Appointment subject to such new Statutes as may be made and confirmed by the Court of Chancery, in pursuance of any Proceedings which may be commenced under this Act, within Six Months after such Vacancy shall have occurred.

Lapse of Right of Nomination of Master shall take place from Time of settling the new Statutes.

12. Provided always, and be it enacted, That the Term on the Expiration of which any Right of Nomination or Appointment of the Master in any Grammar School would otherwise lapse shall, on the first Avoidance of the Office which shall occur after the passing of this Act, be computed from the Time of the Confirmation of the new Statutes by which the School is to be in future governed, or if no Proceedings are pending for the Purpose of having Statutes established from the Expiration of the Time within which such Proceedings may be instituted, and not from the Time of the Avoidance.

Where sufficient Powers of Discipline exist, the Persons possessing to be at liberty to exercise them.

13. And whereas it is expedient that the Discipline of Grammar Schools should be more fully enforced; be it declared and enacted, That in all Cases in which sufficient Powers, to be exercised by way of Visitation or otherwise in respect of the Discipline of such Schools,¹ shall already exist and be vested in any Person or Persons, it shall be lawful for such Person or Persons to exercise the same when and so often as they shall deem fit, either by themselves personally or by Commission, without being first requested or required so to do, and likewise to direct such Returns to be made by the Masters of such Schools, of the State thereof, of the Books used therein, and of such other particulars as he or they may think proper, and also to order such Examinations to be held into the Proficiency of the Scholars attending the same as to him or them may seem expedient.

¹ The Endowed Schools Act, 1869, §20 (p. 423) provides that the Commissioners may in any scheme under that Act provide for the transfer of all powers of visitors to Her Majesty, except in the case of cathedral schools.

Where such Powers not sufficient, Court may enlarge them.

14. And be it enacted, That in all Cases in which any Person or Persons, having Authority, by way of Visitation or otherwise, in respect of the Discipline of any Grammar School, may not have sufficient Power properly to enforce the same, it shall be lawful for the Court of Chancery to order and direct that the Powers of such Person or Persons shall be enlarged to such Extent and in such Manner, and subject to such Provisions, as to the said Court shall seem fit.

Where no such Powers, Court may create them.

15. And be it enacted, That in all Cases in which no Authority to be exercised by way of Visitation in respect of the Discipline of any Grammar School is now vested in any known Person or Persons, it shall be lawful for the Bishop of the Diocese wherein the same is locally situated to apply to the Court of Chancery, stating the same; and the said Court shall have Power if it so think fit to order that the said Bishop shall be at liberty to visit and regulate the said School in respect of the Discipline thereof, but not further or otherwise.

Court of Chancery may substitute a Person to act pro hâc vice in certain Cases.—Proviso.

16. And be it enacted, That in event of the Person or Persons by whom Powers of Visitation in respect of the Discipline of any Grammar School ought to be exercised refusing or neglecting so to do within a reasonable Time after the same ought to be exercised, or in the event of its being uncertain in whom the Right to exercise such Powers is vested, such Powers shall be exercised *pro hâc vice* by some Person specially appointed by the Authority of the Court of Chancery, on Application made by any Person or Persons interested in such Grammar School: Provided always, that nothing herein contained shall exempt any Visitor from being compelled by any Process to which he is now amenable to perform any Act which he is now compellable to perform.

Court of Chancery to have Power to appoint Mode of removing Masters.

17. And whereas it is expedient to provide for the more easy Removal of unfit and improper Masters; be it declared and enacted, That it shall be lawful for the Court of Chancery to empower the Person or Persons having Powers of Visitation in respect of the Discipline of any Grammar School, or who shall be specially appointed to exercise the same under this Act, and the Governors, or either of them, after such Inquiries and by such Mode of Proceeding as the Court shall direct, to remove any Master of any Grammar School who has been negligent in the Discharge of his Duties, or who is unfit or incompetent to discharge them properly and efficiently, either from immoral Conduct, Incapacity, Age, or from any other Infirmary or Cause whatsoever.

Power in certain Cases to assign retiring Pension.

18. Provided always, and be it enacted, That in case the Cause for which any Master be removed shall be Incompetency from Age or other Infirmary, it shall be lawful for the said Governors, with the Approbation of the Visitor, to assign to the Use of such Master any Portion of the annual Revenues of the said Grammar School in One or more Donations, or by way of Annuity determinable on the Death of such Master, or on any other specified Event during

his Life, or to assign to him any Part of the Estate of the said Grammar School for his Occupation for a Term determinable in like Manner; provided that there shall remain sufficient Means to provide for the efficient Performance of the Duties which belong to the Office from which such Master shall be removed.

*Premises held over by Masters dismissed, or ceasing to hold Office,
to be recovered in a summary Way.*

19. And for the more speedy and effectual Recovery of the Possession of any Premises belonging to any Grammar School¹ which the Master who shall have been dismissed as aforesaid, or any Person who shall have ceased to be Master, shall hold over after his Dismissal or ceasing to be Master, except under such Assignment as may have been made under the Provisions of this Act, the Term of such Assignment being still unexpired, and the Premises assigned being in the actual Occupation of the Master so dismissed or ceased to be Master, be it enacted, That when and as often as any Master holding any Schoolroom, Schoolhouse, or any other House, Land, or Tenement, by virtue of his Office, or as Tenant or otherwise under the Trustees of the said Grammar School, except on Lease for a Term of Years still unexpired, shall have been dismissed as aforesaid, or shall have ceased to be Master, and such Master, or (if he shall not actually occupy the Premises or shall only occupy a Part thereof) any Person by whom the same or any Part thereof shall be then actually occupied, shall neglect or refuse to quit and deliver up Possession of the Premises, or of such Part thereof respectively, except such as are hereinbefore excepted, within the Space of Three Months after such Dismissal or ceasing to be Master, it shall be lawful for Justices of the Peace acting for the District or Division in which such Premises or any Part thereof are situated, in Petty Sessions assembled, or any Two of them, and they are hereby required, on the Complaint of the said Trustees or their Agents, and on the Production of an Order of the Court of Chancery declaring such Master to have been duly dismissed or to have ceased to be Master, to issue a Warrant, under their Hands and Seals, to the Constables and Peace Officers of the said District or Division, commanding them, within a Period to be therein named, not less than Ten nor more than Twenty-one clear Days from the Date of such Warrant, to enter into the Premises, and give Possession of the same to the said Trustees or their Agents, in such Manner as any Justices of the Peace are empowered to give Possession of any Premises to any Landlord or his Agent under an Act passed in the Session of Parliament held in the First and Second Years of the Reign of Her present Majesty, intituled An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.

¹ Cf. Charitable Trusts Acts, 1853, §22 (p. 464), and 1860, §§13 and 14 (pp. 502, 503). The last-named section expressly provides that it shall not apply to any endowed grammar school.

Master shall not set up Title, etc.

20. Provided always, and be it enacted, That nothing in this Act or the said recited Act shall extend or be construed to extend to enable any Master so dismissed, or ceasing to be Master as aforesaid, to call in question the Validity of such Dismissal, provided that the same shall have proceeded from the Persons authorised to order the same, after such Inquiries and by such Mode of Proceeding as required in that Behalf, or to call in question the Title of the Trustees to Possession of any Premises of which such Master shall have

become possessed by virtue of his late Office, or as Tenant or otherwise under the Trustees of the said Grammar School for the Time being.

Applications to Court to be made by Petition.—Such Petitions to be decided under 52 G. III. s. c. 101.

21. And whereas it is expedient to facilitate Application to the Court of Chancery under this Act; be it enacted, That all Applications may be heard and determined and all Powers given by this Act to the Court of Chancery may be exercised in Cases brought before such Court by Petition only, such Petitions to be presented, heard, and determined according to the Provisions of an Act passed in the Fifty-second Year of the Reign of His late Majesty King George the Third, intituled An Act to provide a summary Remedy in Cases of Abuses of Trusts created for charitable Purposes.

If Crown is Patron, Lord High Chancellor or Chancellor of Duchy of Lancaster shall act.

22. And be it enacted, That in every Case in which the Patronage of any Grammar School, or Right of appointing the Schoolmaster or Under Master thereof, is vested in the Crown, the Lord High Chancellor, or the Chancellor of the Duchy of Lancaster in respect of any Grammar School within the County Palatine of Lancaster, shall be considered as the Patron of such Grammar School for the Purposes of this Act.

Powers of Lord Chancellor to be exercised by Lord Keeper, etc.

23. And be it enacted, That the Powers and Authorities hereinbefore given to the Lord High Chancellor shall and may be exercised in like Manner by and are thereby given to the Lord Keeper or Lords Commissioners for the Custody of the Great Seal respectively for the Time being.

Saving of Rights of Ordinary.—Certain Foundations exempted from this Act.

24. Provided always, and be it enacted, That neither this Act nor any thing therein contained shall be any way prejudicial or hurtful to the Jurisdiction or Power of the Ordinary, but that he may lawfully execute and perform the same as heretofore he might according to the Statutes, Common Law, and Canons of this Realm, and also as far as he may be further empowered by this Act; and that this Act shall not be construed as extending to any of the following Institutions; (that is to say) to the Universities of Oxford or Cambridge, or to any College or Hall within the same, or to the University of London, or any Colleges connected therewith, or to the University of Durham, or to the Colleges of Saint David's or Saint Bee's, or the Grammar Schools of Westminster, Eton, Winchester, Harrow, Charter House, Rugby, Merchant Taylors', Saint Paul's, Christ's Hospital, Birmingham, Manchester, or Macclesfield, or Louth, or such Schools as form Part of any Cathedral or Collegiate Church.

Construction of Terms.

25. And be it enacted, That in the Construction and for the Purposes of this Act, unless there be something in the Subject or Context repugnant to such Construction, the Words 'Grammar School' shall mean and include all

endowed Schools, whether of Royal or other Foundation, founded, endowed, or maintained for the Purpose of teaching Latin and Greek, or either of such Languages, whether in the Instrument of Foundation or Endowment, or in the Statutes or Decree of any Court of Record, or in any Act of Parliament establishing such School, or in other Evidences or Documents, such Instruction shall be expressly described, or shall be described by the Word 'Grammar,' or any other Form of Expression which is or may be construed as intending Greek or Latin, and whether by such Evidences or Documents as aforesaid, or in Practice, such Instruction be limited exclusively to Greek or Latin, or extended to both such Languages, or to any other Branch or Branches of Literature or Science in addition to them or either of them; and that the Words 'Grammar School' shall not include Schools not endowed, but shall mean and include all endowed Schools which may be Grammar Schools by Reputation, and all other charitable Institutions and Trusts, so far as the same may be for the Purpose of providing such Instruction as aforesaid; that the Word 'Visitor' shall mean and include any Person or Persons in whom shall be vested solely or jointly the whole or such Portion of the visitatorial Power as regards the Subject of the Enactment or Provision, or any Powers in regard to the Discipline or making of new Statutes in any School; that the Word 'Governors' shall mean and include all Persons or Corporations, whether Sole or Aggregate, by whatever Name they may be styled, who may respectively have the Government, Management, or Conduct of any Grammar School, whether they have also any Control over the Revenues of the School as Trustees or not; that the Word 'Trustees' shall mean and include all Persons and Corporations, Sole or Aggregate, by whatever Name they may be styled, who shall have the Management, Disposal, and Control over the Revenues of any Grammar School, whether the Property be actually vested in them or not; that the Word 'Statutes' shall mean and include all written Rules and Regulations by which the School, Schoolmasters, or Scholars are, shall, or ought to be governed, whether such Rules or Regulations are comprised in, incorporated with, or authorised by any Royal or other Charter, or other Instrument of Foundation, Endowment, or Benefaction, or declared or confirmed by Act of Parliament, or by Decree of any Court of Record, and also all Rules and Regulations which shall be unwritten, and established only by Usage or Reputation; that the Word 'Schoolmaster' shall mean and include the Head Master only, and the Words 'Under Master' every Master, Usher, or Assistant in any School except the Head Master; and that the Word 'Master' shall mean and include as well any Head Master as Under Master; that the Words 'Discipline' or 'Management' of a School shall mean and include all Matters respecting the Conduct of the Masters or Scholars, the Method and Times of Teaching, the Examination into the Proficiency of the Scholars of any School, and the ordering of Returns or Reports with reference to such Particulars, or any of them; and that any Word importing the Singular Number only shall mean and include several Persons or Things as well as one Person or Thing, and the converse.

THE ENDOWED SCHOOLS ACT, 1860.

23 Victoria, Chap. 11.

AN ACT to amend the Law relating to Endowed Schools.
[31st March 1860.]

WHEREAS it is expedient that some Restrictions upon the Government and Teaching of certain Endowed Schools should be removed or modified: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Repealed by Statute Law Rev. Act, 1892.

Power to Trustees of Endowed Schools to make Orders for the Admission of Children of Denominations herein stated.

1. It shall be lawful for the Trustees or Governors of every Endowed School from Time to Time to make, and they shall be bound to make, such Orders as, whilst they shall not interfere with the religious Teaching of the other Scholars as now fixed by Statute or other legal Requirement, and shall not authorise any religious Teaching other than that previously afforded in the School, shall nevertheless provide for admitting to the Benefits of the School the Children of Parents not in communion with the Church, Sect, or Denomination according to the Doctrines or Formularies of which religious Instruction is to be afforded under the Endowment of the said School:¹ Provided that in the Will or Wills, Deed or Deeds, or other Instrument or Instruments regulating such Endowment, nothing be contained expressly requiring the Children educated under such Endowment to learn or be instructed according to the Doctrines or Formularies of such Church, Sect, or Denomination.

¹ Cf. §§15 and 16 of the Endowed Schools Act, 1869 (p. 421).

Act not to apply to certain Institutions or to Scotland or Ireland.

2. This Act shall not apply to any of the Institutions mentioned in Section Twenty-four of the Act of the Third and Fourth of Victoria, Chapter Seventy-seven, entitled an Act for improving the Condition and extending the Benefits of Grammar Schools, nor to any School established or to be established by or in union with the National Society for promoting the Education of the Poor in the Principles of the Established Church, nor to any Institution maintained wholly by voluntary Subscriptions, or partly by voluntary Subscriptions and partly by School Payments, nor to Scotland or Ireland.

Short Title.

3. This Act may be cited as 'The Endowed Schools Act, 1860.'

THE ENDOWED SCHOOLS ACT, 1868.

31 and 32 Victoria, Chap. 32.

AN ACT for annexing Conditions to the Appointment of
Persons to Offices in certain Schools. [25th June 1868.]

Whereas the Commissioners appointed to inquire into the Education given in Schools not comprised within the Scope of certain Letters Patent of Her Majesty, bearing Date respectively the Thirtieth Day of June One thousand eight hundred and fifty-eight and the Eighteenth Day of July One thousand eight hundred and sixty-one, made their Report dated the Second Day of December One thousand eight hundred and sixty-seven :

And whereas by such Report it appears that Legislation will be necessary with a view to carry into effect the Recommendations therein contained with respect to such of the aforesaid Schools as are endowed :

And whereas it is expedient that no Impediment should be created to the free Action of the Legislature in carrying into effect such Recommendations by the Acquisition of vested Interests by Persons appointed to Offices or other Emoluments after the passing of this Act :

Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Repealed by Stat. Law Rev. Act, 1893.

Short Title.

1. This Act may be cited for all Purposes as 'The Endowed Schools Act, 1868.'

Persons appointed after passing of Act to take Office subject to future Legislation.

2. Every Person appointed after the passing of this Act to any Office or Emolument in or in the Gift of the Governing Body of any of the said Schools shall take and hold such Office or Emolument subject to such Provisions and Regulations as may hereafter be enacted respecting the same.¹

¹ As a result of this Act it is not necessary in schemes made under the Endowed Schools Act, 1869, to provide for saving or giving compensation for interests which became vested after the passing of this Act. See §13 of the Endowed Schools Act, 1869 (p. 419).

Definition of 'Governing Body.'

3. For the Purposes of this Act the Term 'Governing Body' shall include Patrons, Trustees, Governors, or other Persons in whom is vested the Right of

appointing new Masters in the said Schools on Vacancies occurring, and of holding and managing the Property of the said Schools, or either of such Rights.

Definition of 'Office or Emolument.'

4. 'Office or Emolument' shall include any Mastership, also any Office to which the Duty of teaching Grammar is attached, also any Employment in or about the Estates or Property of the Governing Body, also any Pension or Compensation Allowance.

Not to affect Tenure of any Scholarship, etc., as herein specified.

5. This Act shall not affect the Tenure of any Scholarship, Exhibition, or other like Emolument, or any Pension or Compensation Allowance to which any Person is entitled by reason of a certain Number of Years Service, and the Amount of which is not in the Discretion of the Governing Body.

Duration of Act.

6. *This Act shall continue in force until the First Day of August One thousand eight hundred and sixty-nine, and to the End of the then next Session of Parliament.*

38 & 39 Vic. c. 29, §2, enacts that this Act shall continue in force so long as the powers of making Schemes under the Endowed Schools Acts, 1869, 1873, and 1874, continue in force whether in pursuance of the Endowed Schools Act, 1874, or of any Act hereafter to be passed. These powers have been continued by the Expiring Laws Continuance Act, 1902, to December 31st, 1903. Section 6 has been repealed by the Statute Law Rev. Act, 1893.

THE ENDOWED SCHOOLS ACT, 1869.

32 & 33 Victoria, Chap. 56.

AN ACT to amend the Law relating to Endowed Schools and other Educational Endowments in England, and otherwise to provide for the Advancement of Education.

[2nd August 1869.]

WHEREAS the Commissioners appointed by Her Majesty under letters patent dated the twenty-eighth day of December one thousand eight hundred and sixty-four, to inquire into the education given in schools not comprised within the scope of certain letters patent of Her Majesty, bearing date respectively the thirtieth day of June one thousand eight hundred and fifty-eight and the eighteenth day of July one thousand eight hundred and sixty-one, have made their report, and thereby recommended various changes in the government, management, and studies of endowed schools, and in the application of educational endowments, with the object of promoting their greater efficiency, and of carrying into effect the main designs of the founders thereof, by putting a liberal education within the reach of children of all classes; and have further recommended other measures for the object of improving education:

And whereas such objects cannot be attained without the authority of Parliament:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The Endowed Schools Acts, 1869 to 1889, must be read in connection with the Board of Education Act, 1899, and the Orders in Council made thereunder (pp.391-402); the effect of which is to transfer to the Board of Education all the powers of the Charity Commissioners under the Endowed Schools Acts so far as they relate to endowments held solely for educational purposes.

PRELIMINARY.

Short Title.

1. This Act may be cited as 'The Endowed Schools Act, 1869.'¹

¹ The Short Titles Act, 1896, provides that this Act and the Endowed Schools Acts, 1873 and 1874, and the Welsh Intermediate Education Act, 1889, may be cited by the collective title of the Endowed Schools Acts, 1869 to 1889.

Application of Act.

2. This Act shall not apply to Scotland or Ireland.

Commencement of this Act.

3. *This Act shall come into operation on the passing thereof, which date is in this Act referred to as the commencement of this Act.*

This section is repealed by Stat. Law Rev. Act, 1893.

Definition of 'Endowment.'

4. In this Act, unless the context otherwise requires, the term 'endowment' means every description of property, real, personal, and mixed, which is dedicated to such charitable uses as are referred to in this Act, in whomsoever such property may be vested, and in whosoever name it may be standing, and whether such property is in possession or in reversion, or a thing in action.

Extended by Endowed Schools Act, 1873, §4 (p. 436).

Definition of 'educational endowment.'

5. In this Act, unless the context otherwise requires, the term 'educational endowment'¹ means an endowment or any part of an endowment which, or the income whereof, has been made applicable or is applied for the purposes of education at school of boys and girls or either of them,² or of exhibitions³ tenable at a school or an university or elsewhere, whether the same has been made so applicable by the original instrument of foundation or by any subsequent Act of Parliament, letters patent, decree, scheme, order, instrument, or other authority, and whether it has been made applicable or is applied in the shape—of payment to the governing body of any school or any member thereof, or to any teacher or officer of any school, or to any person bound to teach, or to scholars in any school, or their parents, or—of buildings, houses, or school apparatus for any school, or otherwise howsoever.

See also §24 (p. 423), §29 (p. 426) and §30 (p. 426).

¹ An annual sum temporarily applied to the purposes of a school may be an endowment within the Act. (*In re Hemsworth School*, 12 App. C. 444).

² The deed of foundation of an endowed school which provided that the income should be applicable for the purposes of education of boys and girls further provided that certain persons might remain in the school after the age of 21 years. It was held that the school was none the less an 'educational endowment' within this section, and see 24 *infra*. (*In re Hodgson's School*, 3 App. C. 857.)

³ The Commissioners have power to inquire into the endowment of exhibitions at a College in a University whenever they are restricted to a school or district. The Act applies to the two classes of endowment necessary for the completion of education, and as regards primary education it applies both to boys and girls, and although at the time of the passing of the Act no provision was made for the education of women at the Universities that does not prevent the general application of the words so as to include the largest view of what an educational endowment may be. (*In re Meyricke Fund*, L. R. 7 Ch. 500.)

Definition of 'endowed school.'

6. In this Act, unless the context otherwise requires, the term 'endowed school' means a school which is (or if it were not in abeyance would be) wholly or partly maintained by means of any endowment: Provided that a

school belonging to any person or body corporate shall not by reason only that exhibitions are attached to such school be deemed to be an endowed school.

Interpretation of terms.

7. In this Act, unless the context otherwise requires,—

The term 'exhibition' means any exhibition, scholarship, or other like emolument; and the term 'exhibitioners' and other terms referring to exhibitions are to be construed accordingly:¹

The term 'governing body' means any body corporate, persons or person who have the right of holding, or any power of government of or management over any endowment or, other than as master, over any endowed school, or have any power, other than as master, of appointing officers, teachers, exhibitioners or others, either in any endowed school, or with emoluments out of any endowment:

The term 'Committee of Council on Education' means the Lords of the Committee of Her Majesty's Privy Council on Education.

¹ Cf. Welsh Intermediate Education Act, 1889, §17 (p. 455).

Nothing in this Act, except as expressly provided, to apply to certain schools herein named.

8. Nothing in this Act, save as in this Act expressly provided, shall apply—¹

- (1.) To any school mentioned in section three of the Public Schools Act, 1868,² or to the endowment thereof:³
- (2.) To any school which, on the first of January one thousand eight hundred and sixty-nine, was maintained wholly or partly out of annual voluntary subscriptions, and had no endowment except school buildings or teachers' residences, or playground or gardens attached to such buildings or residences:
- (3.) To any school which, at the commencement of this Act,⁴ is in receipt of an annual grant out of any sum of money appropriated by Parliament to the civil service, intituled 'For Public Education 'in Great Britain,' or to the endowment thereof; unless such school is a grammar school, as defined by the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter seventy-seven, or a school a department of which only is in receipt of such grant:
- (4.) To any school (unless it is otherwise subject to this Act) which is maintained out of any endowment the income of which may, in the discretion of the governing body thereof, be wholly applied to other than educational purposes, or to such endowment:
- (5.) To any school (unless it is otherwise subject to this Act) which receives assistance out of any endowment the income of which may, in the discretion of the governing body of such endowment, be applied to some other school:
- (6.) To any endowment applicable and applied solely for promoting the education of the ministers of any church or religious denomination, or for teaching any particular profession, or to any school (unless it is otherwise subject to this Act) which receives assistance out of such endowment:

- (7.) To any school which, during the six months before the first of January one thousand eight hundred and sixty-nine, was used solely for the education of choristers, or to the endowment of any such school if applicable solely for such education.

¹ These exceptions are extended by Endowed Schools Act, 1873, §3 (p. 435), but as to Wales, see Welsh Intermediate Education Act, 1889 §12 (2) (p. 453).

² The schools therein mentioned are Eton, Winchester, Westminster, Charterhouse, Harrow, Rugby, and Shrewsbury.

³ Where land was devised in trust for the maintenance of eighteen scholars at Christ Church, Oxford, to be chosen from six schools, of which Shrewsbury was one, North J. held that the exhibitions were part of the 'endowment' of the schools, but that as the benefit of the endowment was not confined to Shrewsbury but extended to other schools which were not public schools within the Public Schools Act, 1868, the jurisdiction of the Commissioners was not excluded by this subsection. (*Att.-Gen. v. Christ Church, Oxford, W.N.*, 1894, p. 153. *L. R.* 1894, 3 Ch. 524.)

⁴ 2nd August 1869.

REORGANISATION OF ENDOWED SCHOOLS.

Schemes for Application of Educational Endowments.

9. The Commissioners (appointed as in this Act mentioned),¹ by schemes made during the period,² in the manner and subject to the provisions in this Act mentioned, shall have power, in such manner as may render any educational endowment most conducive to the advancement of the education of boys and girls, or either of them, to alter,³ and add to any existing, and to make new trusts directions and provisions in lieu of⁴ any existing trusts, directions and provisions which affect such endowment, and the education promoted thereby, including the consolidation of two or more such endowments, or the division of one endowment into two or more endowments.

¹ The Endowed Schools Act, 1874, §1 (p. 443) and §10 (p. 446) transferred the powers of the Endowed Schools Commissioners to the Charity Commissioners. Now, by the Board of Education Act, 1899 (p. 391) and the Orders in Council made thereunder (pp. 396-402) all powers conferred on the Charity Commissioners by the Endowed Schools Acts, or any order, scheme, rule, regulation, form or instrument made under any of them are, so far as these powers relate to endowments held solely for educational purposes, transferred to the Board of Education. When the Charity Commissioners in cases where any question has been raised determine what part of an endowment is held for educational purposes, that part is to be treated for the purpose of the transfer of powers as held solely for educational purposes.

² As to the period for making schemes, see §59, *infra*, and note thereto.

³ The Commissioners are acting within their powers under this section in providing that endowments which had hitherto been applied in carrying on the schools of a particular parish should thenceforth be applied in exhibitions for the benefit of a larger area. (*In re St. Leonard's School, Shoreditch*, 10 App. C. 304.)

⁴ The removal of the site of a school from one parish or place to another is within the scope of this Act and the powers conferred by this section. (*In re Hemsworth Grammar School*, 12 App. C. 444.)

Schemes as to Governing Bodies.

10. The Commissioners by any scheme relating to an educational endowment made during the period, in the manner and subject to the provisions in this Act mentioned, shall have power to alter the constitution,¹ rights, and powers of any governing body of an educational endowment, and to incorporate

any such governing body, and to establish a new governing body, corporate or unincorporate, with such powers as they think fit, and to remove a governing body, and in the case of any corporation (whether a governing body or not) incorporated solely for the purpose of any endowment dealt with by such scheme, to dissolve such corporation.

¹ See §14 (2), (3), (4) (p. 420), and §24 (3) (p. 423).

Educational Interests of Persons entitled to Privileges.

11. It shall be the duty of the Commissioners in every scheme which abolishes or modifies any privileges or educational advantages to which a particular class of persons are entitled, and that whether as inhabitants of a particular area or otherwise, to have due regard to the educational interests of such class of persons.¹

This section is amended by Endowed Schools Act, 1873, §5.

¹ This section does not preclude the Commissioners from enhancing the fees charged for tuition to the members of a privileged class, and adding a condition that the Trustees shall be satisfied that aid is needed by the parents of the boys taught. (*Ross v. Charity Commissioners*, 7 App. C. 463.)

Schemes to extend Benefit to Girls.

12. In framing schemes under this Act, provision shall be made so far as conveniently may be for extending to girls the benefits of endowments.¹

¹ Including exhibitions tenable at the Universities. (Per Hatherley L.C. *In re Meyricke Fund*, L.R. 7 Ch. 502.)

Saving of Interest of Foundationer, Master, Governing Body, etc.

13. It shall be the duty of the Commissioners to provide in any scheme for saving or making due compensation for the following vested interests,¹ namely,

- (1.) The interest of any boy or girl who was at the time of the passing of this Act on the foundation of any endowed school :
- (2.) The tenure by any person of any exhibition dealt with by any such scheme which was held by him at the time of the passing of this Act :
- (3.) Such interest as any teacher² or officer in any endowed school appointed to his office before the passing of the Endowed Schools Act, 1868, may have :
- (4.) Such interest as any person may have in any pension or compensation allowance to which he was entitled at the passing of the Endowed Schools Act, 1868 :³
- (5.) Such interest as any member of the governing body of any educational endowment appointed to his office before the passing of the Endowed Schools Act, 1868, may have in any emolument payable to him as such, or in any right of patronage which has a marketable value, and is capable of being sold by him :

It shall also be the duty of the Commissioners in any scheme relating to any endowed school to have regard to the rights of patronage which may be at the passing of this Act exercised by any member of the governing body of such school in consequence of any gift or donation made by him.

¹ The inhabitants and ratepayers of a locality have no *locus standi* to appeal against a scheme if the only interest they claim is that a right given to them as a class by the

founder's deed to have their children taught free is taken away by the scheme. The general interest of the class does not come within the category of 'vested interests' saved by this section. (*In re Shaftoe's Charity*, 3 App. C. 872.)

This section protects vested interests only, i.e., privileges or educational advantages to which the class of persons hereby or by later Acts designated have a legal title, and does not protect benefits which have been enjoyed by the permission or bounty of another. (*In re Sutton Coldfield Grammar School*, 7 App. C. 91.)

² The interest of a teacher who is liable to be dismissed by a resolution of the Governors duly passed is none the less a vested interest protected by this sub-section so long as no such resolution has been arrived at. (*In re Alleyn's College, Dulwich*, 1 App. C. 68.)

³ See p. 413.

*Not to authorise Schemes for interfering with Modern Endowments,
Cathedral Schools, etc.*

14. Nothing in this Act shall authorise the making of any scheme interfering—

- (1.) with any endowment, or part of an endowment¹ (as the case may be) originally given² to charitable uses, or to such uses as are referred to in this Act, less than fifty years before the commencement of this Act, unless the governing body of such endowment assent to the scheme:³
- (2.) with the constitution of the governing body of any school wholly or partly maintained out of the endowment of any cathedral or collegiate church, or forming part of the foundation of any cathedral or collegiate church, unless the dean and chapter of such church assent to the scheme:
- (3.) with the constitution of the governing body of any school, which governing body is subject to the jurisdiction of the governing body of the people called Quakers, or of the congregation of United Brethren called Moravians, unless the governing body of such school assent to the scheme:
- (4.) with the constitution of the governing body of any school or with any exhibition (other than one restricted to any schools, or school or district) forming part of the foundation of any college in Oxford or Cambridge, unless the college assent to the scheme.

¹ See §§25 and 26 below, and §13 of Welsh Intermediate Education Act, 1889 (p. 453).

² A scheme made by the Court of Chancery within the fifty years does not bring an endowment within these words if the original donation was not within the fifty years. (*Ross v. Charity Commissioners*, 7 App. C. 463.)

In a case submitted in 1899 to the Law Officers of the Crown (viz., Sir R. E. Webster, A.G., and Sir R. Finlay, S.G.), the first question was whether under the Endowed Schools Act, 1869-74, a scheme can be made for an educational endowment given to charitable uses after 2nd August 1869, the date of the commencement of the principal Act: (a) if mixed with an endowment given before that date, (b) if not mixed in any way with such endowment.

The answer to this question was: It is in our opinion quite clear that under the Endowed Schools Acts, 1869-74, a scheme cannot be made for an educational endowment given to charitable uses after 2nd August 1869. The whole scheme of these Acts shows that they deal only with endowments in existence at the date of the principal Act: but we may particularly refer to §§9, 13, 14, 24, 25, 26, and 32 of the Act of 1869 and to §13 of the Welsh Intermediate Education Act, 1889. The fact that the Act of 1869 was temporary points to the same conclusion. It makes no difference

whether the endowment has or has not been mixed with an endowment given before that date. Of course, if such an endowment has been annexed to an old endowment with which the Commissioners may deal, it may in this way be indirectly affected by a scheme dealing with the old endowment. (Forty-seventh Report of the Charity Commission, p. 67.)

³ This section leaves the jurisdiction of the Court of Chancery untouched in regard to endowments within the fifty years' limit: it has neither diminished nor increased it. The section can at most assist the Court in the exercise of its discretion, within the limits of its jurisdiction. Therefore where endowments within the fifty years' limit had been excepted from a scheme approved of for Christ's Hospital in 1890, Chitty J. held that the Court had no jurisdiction in the face of the opposition of the governing body, their title being established by Act of Parliament to sanction a new scheme dealing with these endowments no breach of trust being alleged. (*Att.-Gen. v. Governors of Christ's Hospital*, 1896, 1 Ch. 879.)

As to Religious Education in Day Schools.

15. In every scheme (except as hereafter mentioned) relating to any endowed school or educational endowment the Commissioners shall provide that the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar attending such school as a day scholar, may claim, by notice in writing addressed to the principal teacher of such school, the exemption of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, and that such scholar shall be exempted accordingly, and that a scholar shall not by reason of any exemption from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, be deprived of any advantage or emolument in such endowed school or out of any such endowment to which he would otherwise have been entitled, except such as may by the scheme be expressly made dependent on the scholar learning such lessons.

They shall further provide that if any teacher, in the course of other lessons at which any such scholar is in accordance with the ordinary rules of such school present, teaches systematically and persistently any particular religious doctrine from the teaching of which any exemption has been claimed by such a notice as is in this section before provided, the governing body shall, on complaint made in writing to them by the parent, guardian, or person having the actual custody of such scholar, hear the complainant, and inquire into the circumstances, and, if the complaint is judged to be reasonable, make all proper provisions for remedying the matter complained of.¹

¹ See Welsh Intermediate Education Act, 1889, §4 (p. 449) and Education Act, 1902, §4 (2), p. 38.

As to Religious Education in Boarding School.

16. In every scheme (except as hereinafter mentioned) relating to an endowed school the Commissioners shall provide that if the parent or guardian of, or person liable to maintain or having the actual custody of, any scholar who is about to attend such school, and who but for this section could only be admitted as a boarder, desires the exemption of such scholar from attending prayer or religious worship, or from any lesson or series of lessons on a religious subject, but the persons in charge of the boarding-houses of such school are not willing to allow such exemption, then it shall be the duty of the governing body of such school to make proper provisions for enabling the scholar to attend the school and have such exemption as a day scholar, without being deprived

of any advantage or emolument to which he would otherwise have been entitled, except such as may by the scheme be expressly made dependent on the scholar learning such lessons. And a like provision shall be made for a complaint by such parent, guardian, or person as in the case of a day school.

Governing Body not to be disqualified on ground of Religious Opinions.

17. In every scheme (except as hereinafter mentioned) relating to any educational endowment the Commissioners shall provide that the religious opinions of any person, or his attendance or non-attendance at any particular form of religious worship, shall not in any way affect his qualification for being one of the governing body of such endowment.¹

¹ See Endowed Schools Act, 1873, §8, *infra*, p. 437.

Masters not to be required to be in Holy Orders.

18. In every scheme (except as hereinafter mentioned) relating to an endowed school the Commissioners shall provide that a person shall not be disqualified for being a master in such school by reason only of his not being or not intending to be in holy orders.

Schools excepted from Provisions as to Religion.

19. A scheme relating to—

- (1.) any school which is maintained out of the endowment of any cathedral or collegiate church, or forms part of the foundation of any cathedral or collegiate church; or
- (2.) any educational endowment, the scholars educated by which are, in the opinion of the Commissioners (subject to appeal to Her Majesty in Council as mentioned in this Act) required by the express terms of the original instrument of foundation or of the statutes or regulations made by the founder or under his authority, in his lifetime or within fifty years after his death (which terms have been observed down to the commencement of this Act) to learn or to be instructed according to the doctrines or formularies of any particular church, sect, or denomination,¹

is excepted from the foregoing provisions respecting religious instruction, and attendance at religious worship (other than the provisions for the exemption of day scholars from attending prayer or religious worship, or lessons on a religious subject, when such exemption has been claimed on their behalf), and respecting the qualification of the governing body and masters (unless the governing body, constituted as it would have been if no scheme under this Act had been made, assents to such scheme).

And a scheme relating to any such school or endowment shall not, without the consent of the governing body thereof, make any provision respecting the religious instruction or attendance at religious worship of the scholars (except for securing such exemption as aforesaid) or respecting the religious opinions of the governing body² or masters.³

¹ A charity which has no instrument of foundation, or statutes, or duly authorised regulations impressing upon it a denominational character does not fall within this clause or the seventh section of the Endowed School Acts, 1873. Its trustees cannot impress upon it that character, nor is any practice for the time being as to the application of its funds sufficient evidence of there ever having been regulations in existence which prescribed it (*In re St. Leonard's Shoreditch Schools*, 10 App. C. 304), even though

doctrinal instruction has been required by a bye-law for many years past (*In re Swansea Grammar School*, 1894, App. C. 252).

² These words prevent the Commissioners from making particular religious opinions more or less necessary than they were before to qualify generally for the office of governor under the scheme, but they do not prohibit the Commissioners from making the office of the rector of a parish a qualification for a place on the governing body of a Church of England school. (*In re Hodgson's School*, 3 App. C. 857.)

³ This section is extended by the Endowed Schools Act, 1873, § 7, *infra*, p. 437.

Transfer of Jurisdiction of Visitors.

20. In every scheme the commissioners may, if they think fit, provide for the transfer to Her Majesty of all rights and powers reserved to, belonging to, claimed by, or capable of being exercised by any person, persons, or body corporate as visitor¹ of the endowed school or educational endowment to which the scheme relates, except in the case of cathedral schools.

They shall also provide that such rights, and powers as aforesaid, if vested in Her Majesty at the commencement of this Act, or if transferred to Her Majesty by the scheme, shall be exercised only through and by the Charity Commissioners for England and Wales.

¹ In the Grammar Schools Act, 1840, §25 (p. 410), a definition of the word visitor is given for the purposes of that Act.

Abolition of Jurisdiction of Ordinary as to Licensing Masters.

21. In every scheme the Commissioners shall provide for the abolition of all jurisdiction of the ordinary relating to the licensing of masters in any endowed school, or of any jurisdiction arising from such licensing.¹

¹ The 77th Canon of 1603 provides that no man shall teach either in public or private school but such as shall be allowed by the bishop of the diocese or ordinary of the place.

Tenure of Office of Teachers.

22. In every scheme the Commissioners shall provide for the dismissal at pleasure of every teacher and officer in the endowed school to which the scheme relates, including the principal teacher, with or without a power of appeal in such cases and under such circumstances as to the Commissioners may seem expedient.

General Provisions.

23. In any scheme the Commissioners may insert all powers¹ and provisions that may be thought expedient for carrying its objects into effect.

¹ *E.g.* they may insert a clause enabling them to determine conclusively upon application made to them by the governors any question affecting the regularity or validity of any proceeding under the scheme, or as to the construction or application of any of the provisions of the scheme. (*In re Hodgson's School*, 3 App. C. 857.)

Apportionment of Mixed Endowments.

24. Where part of an endowment is an educational endowment within the meaning of this Act, and part of it is applicable or applied to other charitable uses, the scheme shall be in conformity with the following provisions (except so far as the governing body of such endowment assent to the scheme departing therefrom); that is to say:

(1.) The part of the endowment or annual income derived therefrom which

- is applicable to such other charitable uses shall not be diverted by the scheme from such uses ;
- (2.) The part of the endowment or annual income so applicable to such other charitable uses shall be deemed to be the proportion which, in the opinion of the Commissioners, subject to appeal to Her Majesty in Council, is the average proportion which has during the three years before the passing of this Act been appropriated as regards capital or applied as regards income to such uses, or (if that proportion differs from the proportion which ought in accordance with the express directions of the instrument of foundation or the statutes or regulation during the said three years governing such endowment to have been so appropriated or applied) which ought to have been so appropriated or applied ;
 - (3.) If the proportion applicable to other charitable uses exceeds one half of the whole of the endowment, the governing body of such endowment existing at the date of the scheme shall, so far as regards its non-educational purposes, remain unaltered by the scheme ;
 - (4.) Where the governing body remains so unaltered, that body shall pay or apply for educational purposes such proportion as under the former provisions of this section is applicable to those purposes, or such less sum as may be fixed by the Commissioners, subject to appeal to Her Majesty in Council ;
 - (5.) Where during the said three years any portion of the endowment as existing at the commencement of such three years, or the annual income of such portion, has been accumulated and not applied to any purpose, the Charity Commissioners for England and Wales shall determine whether such portion or income is to be considered, for the purposes of this section, as having been appropriated or applied for education purposes, or for other charitable uses ;
 - (6.) Where by reason of the Act of Parliament, letters patent, decree, scheme, order, or other instrument during the said three years governing an endowment not having during the said three years been duly carried into effect, or being merely provisional, the preceding provisions of this section are not in the opinion of the Charity Commissioners for England and Wales applicable to such endowment, the Charity Commissioners shall determine what proportions shall be considered as applicable to educational purposes,¹ and such other charitable uses respectively.

Subject to the foregoing provisions of this section, the Commissioners shall have power by any scheme to deal with such endowment, and with the governing body thereof, in the same manner in all respects as if the whole of it were an educational endowment.

¹ The Board of Education (Powers) Order in Council, 1902, §2 (2), provides that where the Charity Commissioners determine by scheme or otherwise what part of the endowment is held for educational purposes that part is for the purposes of that Order to be treated as held solely for educational purposes, with the result that all the powers of the Charity Commissioners under this Act in relation to it are transferred to the Board of Education.

New Endowment mixed with Old Buildings.

25. Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the commencement of this Act has,

by reason of having been spent on school buildings or teachers' residences, or playground or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the purpose of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act.

This section is amended by the Endowed Schools Act, 1873, § 8, *infra*, p. 437.

See also §14 (1) of this Act, and Welsh Intermediate Education Act, 1889, §13 (p. 453).

Apportionment of Old and New Endowments.

26. Where part of an endowment has been originally given to charitable uses more than fifty years, and another part less than fifty years before the commencement of this Act, and the two have not become mixed, as mentioned in this Act, so that they cannot conveniently be separated, and the governing body do not assent to the scheme dealing with the modern part of the endowment, the scheme relating to the old part of the endowment shall, subject to appeal to Her Majesty in Council, apportion such parts, and may direct either that the endowment shall be divided and appropriated accordingly in manner provided in the scheme, or that the whole endowment shall be vested in the governing body of one of such parts; and that the portion which is to be applied by the governing body of the other part shall be a debt due to them from the other governing body, and shall be a first charge on the endowment after payment of any charges existing thereon at the date of the scheme.

See §14 (1) of this Act, and Welsh Intermediate Education Act, 1889, §13 (p. 453).

Claims of Cathedral Schools against Ecclesiastical Commissioners.

27. Where an educational endowment at the commencement of this Act forms or has formed part of the endowment of any cathedral or collegiate church, the Commissioners shall inquire into the adequacy of such educational endowment, and may submit to the Ecclesiastical Commissioners for England proposals for meeting out of the common fund of the Ecclesiastical Commissioners the claims of any school receiving assistance out of the endowment of any such church to have an increased provision made for it in respect of any estates of such church which may have been transferred to the Ecclesiastical Commissioners. And the Ecclesiastical Commissioners, on assenting to any such proposal or any modification of it, may make such provision out of their common fund by such means and in such manner as they think best, and a scheme under this Act may with their consent be made for carrying such proposal into effect.

As to Alteration of Schemes.

28. In any scheme the Commissioners may provide¹ for the alteration from time to time of such portions of the scheme as they think expedient by the Charity Commissioners for England and Wales in the exercise of their ordinary jurisdiction,² provided such alteration shall not be contrary to anything contained in this Act.

¹ This section is explained by Endowed Schools Act, 1873, §10, *infra* p. 438.

² The words 'in the exercise of their ordinary jurisdiction' mean 'in the exercise of their jurisdiction under the Charitable Trusts Act.' It has been the practice of the

Charity Commissioners to make the provision referred to in the section in schemes made under the Endowed Schools Acts, and the effect is therefore that a scheme made under the comparatively lengthy procedure of the Endowed Schools Acts may, if it contains this provision (subject to the proviso contained in the section) be altered by a scheme made under the simpler machinery of the Charitable Trusts Acts. The section may now be read, in respect of educational endowments, as referring to the 'ordinary jurisdiction' of the Board of Education under the Charitable Trusts Acts.

Apprenticeship Fees, etc.

29. For the purposes of this Act endowments attached to any school for the payment of apprenticeship fees or for the advancement in life or for the maintenance or clothing or otherwise for the benefit of children educated at such school shall be deemed to be educational endowments.

Provided that nothing shall be construed to prevent a scheme relating to any such endowment from providing, if the governing body so desire, for the continued application of such endowment to the same purposes.

Application to Education of non-Educational Charities.

30. In the case of any endowment which is not an educational endowment as defined in this Act, but the income of which is applicable wholly or partially to any one or more of the following purposes; namely,—

- Doles in money or kind;
- Marriage portions;
- Redemption of prisoners and captives;
- Relief of poor prisoners for debt;
- Loans;
- Apprenticeship fees;
- Advancement in life, or

Any purposes which have failed altogether or have become insignificant in comparison with the magnitude of the endowment, if originally given to charitable uses in or before the year of our Lord one thousand eight hundred;

it shall be lawful for the Commissioners, with the consent of the governing body, to declare,¹ by a scheme under this Act, that it is desirable to apply for the advancement of education the whole or any part of such endowment, and thereupon the same shall for the purposes of this Act be deemed to be an educational endowment, and may be dealt with by the same scheme accordingly:²

Provided that—

- (1.) In any scheme relating to such endowment due regard shall be had to the educational interests of persons of the same class in life or resident within the same particular area as that of the persons who at the commencement of this Act are benefited thereby;
- (2.) No open space at the commencement of this Act enjoyed or frequented by the public shall be enclosed in any other manner than it might have been if this Act had not passed.

¹ If the Commissioners have not made a declaration that it is desirable to apply for the advancement of education the income of a charitable endowment not previously applicable to education, the mere pendency of a scheme before the Commissioners is no reason why the Court of Chancery should not settle a scheme for the management of the Charity. (*In re Charitable Gifts for Prisoners, ex parte. Governors of Christ's Hospital, L.R. 8 Ch. 199.*)

² It will be observed from the words 'and may be dealt with by the same scheme

'accordingly' that the Charity Commissioners, in addition to making a scheme declaring a non-educational endowment to be an educational endowment, might in the same scheme make provision for the manner in which the endowment should be administered, since the endowment would not become an educational endowment, and therefore subject to the jurisdiction of the Board of Education, till the scheme had been sealed.

In the case for opinion referred to in note 2 to §14, *supra*, the law officers were further asked whether an endowment not educational before the commencement of this Act, but declared to be educational by a scheme made under §30, may be dealt with by another scheme made under the Endowed Schools Act, and they answered this question in the affirmative.

PROCEDURE FOR MAKING SCHEMES.

Appointment of Commissioners for purposes of this Act.

31. For the purposes of this Act it shall be lawful for Her Majesty from time to time to appoint Commissioners (in this Act referred to as 'the Commissioners'), and to appoint a secretary to such Commissioners, and to remove any Commissioners or secretary so appointed and appoint others, but the number of such Commissioners shall not exceed three at any one time.

The Commissioners of Her Majesty's Treasury may assign to the Commissioners and secretary such salaries, and allow them to employ such assistant Commissioners, officers, and clerks, as the Commissioners of Her Majesty's Treasury may think proper.

The Commissioners, secretary, and other persons so appointed and employed shall not hold office after the expiration of the time limited for the exercise of their powers.¹

¹ Repealed by 37 & 38 Vic., c. 87, §7, other provisions substituted by §§1 to 3 of that Act.

Preparation of Draft Scheme.

32. The Commissioners, after such examination or public inquiry as they think necessary, may prepare drafts of schemes for the purposes of this Act, subject to the following conditions; ¹ namely,

(1.) Where the gross average annual income of an endowment or of the aggregate educational endowments of an endowed school during the three years next before the first of January one thousand eight hundred and sixty-nine,—

(a) exceeded ten thousand pounds a year, then before the expiration of twelve months, and where it—

(b) exceeded one thousand pounds a year, then before the expiration of six months,

after the commencement of this Act, any governing body of any such endowment may, if they give to the Commissioners such notice as in this section mentioned, prepare and submit to the Commissioners in writing a scheme relating to such endowment, and the Commissioners shall consider such scheme before they themselves prepare any draft of a scheme relating to the same endowment; and any scheme so prepared by the governing body, and submitted to the Commissioners, shall, if approved by them, be adopted and proceeded with by them in the same manner as if it were a draft scheme originally prepared by themselves:

(2.) The notice to be given by a governing body to the Commissioners is a notice of their intention to prepare and submit to the Commissioners

a draft of a scheme, which notice shall be in writing, and shall be given to the Commissioners within two months after the commencement of this Act :

- (3.) The certificate of the Charity Commissioners for England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment or aggregate endowments of an endowed school.

¹ See Welsh Intermediate Education Act, 1889, §3 (1) (p. 448), and §11 (p. 452).

As to Printing and Publication of Draft Schemes.

33. When the Commissioners have prepared the draft of a scheme they shall cause it to be printed, and printed copies of it to be sent to the governing body or governing bodies of the endowment or endowments to which it relates, and to the principal teacher of any endowed school to which it relates, and shall also cause the draft, or a proper abstract of it, to be published and circulated in such manner as they think sufficient for giving information to all persons interested.

Objections and suggestions respecting scheme and alternative scheme.

34. During three¹ months after the first application of the draft of a scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates.

¹ Altered to two months by Endowed Schools Act, 1873, §12, *infra*, p. 438.

Power to make inquiry into Schemes.

35. At any time after the expiration of the three¹ months the Commissioners, or any one of them, if they think fit, may hold an inquiry or they may refer the draft of the scheme and the alternative scheme, if any, to an Assistant Commissioner, and direct him to hold an inquiry concerning the subject matter of such scheme or schemes.

¹ Altered to two months by Endowed Schools Act, 1873, §12, *infra*, p. 438.

As to framing of Schemes.

36. As soon as may be after the expiration of the said three¹ months, or the holding of such inquiry by the Commissioners or one of them, or the receipt by the Commissioners of the report of the Assistant Commissioner, on the inquiry held by him (as the case may be), the Commissioners shall proceed to consider any objections or suggestions made to them in writing respecting the draft scheme, and to consider the alternative scheme, if any, and the report, if any, and thereupon they shall, if they think fit, frame a scheme in such form as they think expedient, and submit it for the approval of the Committee of Council on Education : Provided that where a scheme has been prepared and submitted in pursuance of this Act to the Commissioners before the Commissioners have prepared the draft of a scheme, the Commissioners shall, if requested by the governing body which submitted it, submit such scheme with their own to the Committee of Council on Education.

¹ Altered to two months by Endowed Schools Act, 1873, §12, *infra*, p. 438.

Approval of Committee of Council on Education to schemes.

37. *The Committee of Council on Education shall consider all schemes so submitted to them, and may, if they think fit, approve any scheme so submitted, and shall cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested.*

If the Committee do not approve a scheme submitted to them the Commissioners may frame and submit another scheme in the same manner as if no scheme had been previously framed and submitted; provided that where the Committee of Council on Education have not approved any scheme relating to an endowment, the governing body of which may under this Act prepare and submit a draft of a scheme before the Commissioners prepare a draft of a scheme, such governing body may, within three months after notice of such non-approval (if within one month thereafter they give written notice of their intention to the Commissioners), submit to the Commissioners an amended scheme; and the Commissioners shall consider the same before they frame and submit another scheme relating to the same endowment, and such amended scheme of the governing body, if approved by the Commissioners, shall be adopted and proceeded with by them as if it were a scheme originally framed by themselves.¹

¹ This section is amended by the Endowed Schools Act, 1873, § 13, and the first paragraph of the section is repealed by § 20 of that Act.

Consent of Colleges or Hall.

38. Where a scheme abolishes any restriction which makes any exhibition tenable only at a particular college or hall in any university, and the exhibition is payable out of property held by such college, or by the university in trust for such college or hall, (otherwise than as governing body of a school, or as a bare trustee), the scheme shall not be approved if not less than two-thirds of the governing body of such college or hall dissent therefrom in writing; but in every such case the Committee of Council shall make a special report to Parliament setting out the proposed scheme, and stating the dissent, and the reasons, if any, assigned for it.

Appeal to Queen in Council.

39. If the governing body of any endowment to which a scheme relates, or any person or body corporate directly¹ affected by such scheme, feels aggrieved by the scheme, on the ground—

- (1.) Of any decision of the Commissioners in a matter in which an appeal to Her Majesty in Council is given by this Act²; or
- (2.) Of the scheme not saving or making due compensation for his or their vested interest as required by this Act;³
- (3.) Of the scheme being one which is not within the scope of or made in conformity with this Act; or
- (4.) (If the governing body are the petitioners,) of a scheme not having due regard to any educational interests, to which regard is required by this Act to be had, on the abolition or modification of any privileges or educational advantages to which a particular class of persons are entitled;⁴

such governing body, person, or body corporate may within two months after the publication of the scheme when approved petition Her Majesty in Council

stating the grounds of the petition, and praying Her Majesty to withhold her approval from the whole or any part of the scheme.⁵

*Her Majesty, by Order in Council, may refer any such petition for the consideration and advice of five members at the least of Her Privy Council, of whom two (not including the Lord President) shall be members of the Judicial Committee, and such five members may, if they think fit, admit counsel to be heard in support of and against the petition, and shall have the same power with respect to the costs of all parties to the petition as the Court of Chancery would have if the petition were a proceeding in that Court by way either of petition or information for obtaining a scheme.*⁶

Any petition not proceeded with in accordance with the regulations made with respect to petitions presented to the Judicial Committee of the Privy Council shall be deemed to be withdrawn.

It shall be lawful for Her Majesty by Order in Council to direct that the scheme petitioned against be laid before Parliament, or to remit it to the Commissioners with such declaration as the nature of the case may require.

¹ Ratepayers and householders of a locality who claim merely as members of a class whose right to free education for their children may be affected by a scheme, and not as having any present personal interest in the matter, are not persons 'directly' affected. (*In re Shaftoe's Charity*, L. R. 3 App. C. 872. *In re Grammar School in Colchester*, 1898, App. C. 477.)

² See §19 (2), §24 (2) and (4), §25, and §26 of this Act, and Endowed Schools Act, 1873, §8 (p. 437).

³ See §13 (p. 419).

⁴ Extended by Endowed Schools Act, 1873, §5 (p. 437).

⁵ In an appeal under this section the Privy Council will not enter into considerations as to the policy of the scheme. It can only be modified in so far as it is not within the legal powers of its framers. (*In re Swansea Grammar School*, 1894, App. C. 252.)

⁶ This portion of the section is repealed by Endowed Schools Act, 1873, §20, and other provisions are substituted by §14 of the same Act (p. 440).

Proceedings where Scheme is remitted.

40. Where a scheme is remitted with a declaration the Commissioners may either proceed to prepare another scheme in the matter in the same manner as if no scheme had been previously prepared, or may submit for the approval of the Committee of Council on Education such amendments in the scheme as will bring it into conformity with the declaration.

The Committee may, if they think fit, approve the scheme with such amendments, and shall publish and circulate the same in the same manner and subject to the same right of petition to Her Majesty in Council as is before directed in the case of the approval of a scheme, and so on from time to time as often as occasion may require.

Schemes, etc. to be laid before Parliament.

41. After the time has expired for a petition to Her Majesty in Council against any scheme, or after Her Majesty in Council has directed a scheme to be laid before Parliament, the scheme shall be forthwith laid before both Houses of Parliament, if Parliament be sitting, or if not, then within three weeks after the beginning of the next ensuing session of Parliament, and after such scheme has lain for forty days before Parliament, then unless within such forty days an address has been presented by one or other of the said Houses praying Her

*Majesty to withhold Her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare Her approbation of such scheme or any part thereof to which such address does not relate.*¹

¹ This section is repealed by Endowed Schools Act, 1873, §20, except as regards schemes which had already been before Parliament, and other provisions are substituted by §15 of the same Act (p. 440).

Exceptions as to Schemes for Endowments under £100.

42. Where a scheme relates to an endowment which during the three years preceding the commencement of this Act has had an average annual gross income of not more than one hundred pounds, no petitions shall be presented to Her Majesty in Council with reference to such scheme, so far as it relates to such an endowment.

The certificate of the Charity Commissioners for England and Wales shall be conclusive evidence for the purposes of this section of the income of an endowment.

New Scheme on Non-approval.

43. If any scheme or any part thereof is not approved by Her Majesty, then the Commissioners may thereupon proceed to prepare another scheme in the matter, and so on from time to time as often as occasion may require.

Amendment of Schemes.

44. Schemes may be from time to time framed and approved for amending any scheme approved under this Act, and all the provisions of this Act relative to an original scheme shall apply also to an amending scheme, *mutatis mutandis*.

Scheme to take effect.

45. A scheme shall not of itself have any operation, but the same, when and as approved by Her Majesty in Council, shall from the date specified in the scheme, or, if no date is specified, from the date of the Order in Council, have full operation and effect in the same manner as if it had been enacted in this Act.¹

¹ A scheme relating to Berriew School having been approved by Her Majesty in Council without having been laid before Parliament when that step was required, the Clerk to the Privy Council intimated his view that it could not be abrogated except by Act of Parliament, and accordingly an Act was passed by which the Order in Council was annulled (60 and 61 Vict. c. lxvii.).

In the case for opinion referred to in note 2 to §14, *supra*, the law officers were further asked whether a scheme purporting to deal with an educational endowment given to charitable uses after the commencement of this Act could be set aside by the High Court, notwithstanding that it had been approved by the Queen in Council and notwithstanding the provisions of §§45, 46 and 47, and they answered: 'No. The Order in Council is conclusive.'

Effect of Scheme.

46. Upon a scheme coming into operation, every Act of Parliament, letters patent, statute, deed, instrument, trust, or direction relating to the subject matter of the scheme, and expressed by such scheme to be repealed and abrogated, shall, by virtue of the scheme and of this Act, be repealed and abrogated from the date in that behalf specified, or if no date is specified, from

the date of the scheme coming into operation, and all property purporting to be transferred by such scheme shall, without any other conveyance or act in the law (so far as may be), vest in the transferees, and so far as it cannot be so vested shall be held in trust for the transferees.

Evidence of Scheme.

47. The Order in Council approving a scheme shall be conclusive evidence that such scheme was within the scope of and made in conformity with this Act, and the validity of such scheme and order shall not be questioned in any legal proceedings whatever.

Quorum of Commissioners.

48. *A scheme of the Commissioners shall not be submitted to the Committee of Council on Education unless two at least of the Commissioners have signified in writing their approval of such scheme, but in all other respects one Commissioner may act under this Act.*¹

¹ Repealed by 37 & 38 Vict. c. 87, § 7.

Power of Commissioners, etc., as to procuring evidence.

49. Section eleven of the Charitable Trusts Act, 1853, (which relates to the production of documents by public officers), and sections six, seven, eight, and nine of 'The Charitable Trust Act, 1855' (relating to evidence, and the attendance and examination of witnesses,) shall extend to the Commissioners and Assistant Commissioners under this Act, as if they were the commissioners and inspectors mentioned in those sections.¹

Inquiry by Public Sittings by Commissioners, etc.

50. Where any Commissioner¹ or Assistant Commissioner¹ holds a local inquiry for the purpose of a scheme under this Act, whether before or after the first publication of a draft scheme, he shall for that purpose hold a sitting or sittings in some convenient place in the neighbourhood of the place where the endowment is situate or administered, and thereat take and receive any evidence and information offered, and hear and inquire into any objections or suggestions made or to be made during the sitting or sittings respecting the scheme or the endowment or school, with power from time to time to adjourn any sitting.

Notice shall be published, in such manner as the Commissioners direct, of every such sitting (except an adjourned sitting), fourteen days at least before the holding thereof.

As to Report of Assistant Commissioners.

51. The Assistant Commissioner¹ who holds a local inquiry shall make a report in writing to the Commissioners setting forth the result of the inquiry, and where a draft scheme, with or without an alternative scheme, has been referred to him whether in his opinion such draft or alternative scheme, as the case may be, should be approved with or without alteration, and if with any, then with what alteration, and his reasons for the same, and the objections and suggestions, if any, made on the inquiry, and his opinion thereon.

¹ By the Board of Education (Powers) Order in Council, 1900, §1 (p. 396) the Board of Education and their officers were given concurrent powers to hold inquiries under

the Endowed Schools Acts and by the Board of Education (Powers) Order in Council, 1902, all powers of the Commissioners under the said Acts were transferred to them in so far as they related solely to educational endowments.

MISCELLANEOUS.

Restriction of powers of Charity Commissioners, Court, etc.

52. *During the continuance of the power of making schemes under this Act the Charity Commissioners for England and Wales, or any Court or Judge, shall not, with respect to any educational endowment which can be dealt with by a scheme under this Act, make any scheme or appoint any new trustees without the consent of the Committee of Council on Education.*¹

During the same period the Charity Commissioners² shall have the same power of acting upon application made to them by the Commissioners under this Act with respect to any educational endowment as they would have if such application had been made by the governing body of such endowment; and the governing body shall conform to any order made or directions given by the Charity Commissioners upon such application.

¹ The first paragraph of this section is repealed by Endowed Schools Act, 1874, §7, and §6 of the same Act is substituted.

² This power is now transferred to the Board of Education so far as it relates to endowments or parts of endowments which are or are to be deemed to be held solely for educational purposes. See note to §9.

School Chapels appropriated for Religious Worship free from Parochial Jurisdiction.

53. The chapel of an endowed school subject to this Act, which either has been before or after the commencement of this Act consecrated according to law, or is authorised for the time being by the bishop of the diocese in which the chapel is situate, by writing under his hand, to be used as a chapel for such school, shall be deemed to be allowed by law for the performance of public worship and the administration of the sacraments according to the Liturgy of the Church of England, and shall be free from the jurisdiction and control of the incumbent of the parish in which such chapel is situate.

Quorum of Governing Body for Acting under this Act.

54. The majority of the members of a governing body who are present at a meeting of their body duly constituted shall have power to do anything that may be required to be done by a governing body for the purposes of this Act: Provided that this power shall be in addition to and not in restraint of any power which any meeting of such governing body may have independently of this Act.

Persons acquiring Interest after passing of Act to be subject to Scheme.

55. Every interest, right, privilege, or preference, or increased interest, right, privilege, or preference, which any person may acquire after the passing of this Act in or relative to any endowed school or educational endowment, or in the governing body thereof, or as a member of any such governing body, or in or relative to any mastership, office, place, employment, pension, compensation, allowance, exhibition, or emolument in the gift of any such governing

body, shall be subject to the provisions of any scheme made under this Act; and the governing body of an endowed school or educational endowment shall not, during the continuance of the power of making schemes under this Act, begin to build, rebuild, or enlarge any school buildings or teachers' residences or buildings connected therewith, except with the written consent of the Commissioners, or under the directions of such a scheme, but this provision shall not prevent them from continuing any works begun before the passing of this Act, or from doing anything necessary for the repair or maintenance of buildings or residences existing at the passing of this Act.

Service of Notices.

56. Notices and documents required to be served on or sent to a governing body for the purposes of this Act may be served or sent by being left at the office, if any, of such governing body, or being served on or sent to the chairman, secretary, clerk, or other officer of such governing body, or if there is no office, chairman, secretary, clerk, or officer, or none known to the Commissioners (after reasonable inquiry), by being served on or sent to the principal teacher of the school (if any) under such governing body.¹

¹ See Endowed Schools Act, 1873, §4 (2).

Service by Post.

57. Notices and documents required to be served or sent for the purposes of this Act may be served or sent by post, and shall be deemed to have been served and received at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notices or documents was properly addressed and put into the post-office.

Expenses of Act.

58. The salaries paid and expenses incurred in carrying into effect this Act shall be defrayed out of moneys to be provided by Parliament.

Duration of Powers of making Schemes.

59. *The powers of making and approving of a scheme under this Act shall not, unless continued by Parliament, be exercised after the thirty-first of December one thousand eight hundred and seventy-two, or such further day not later than the thirty-first of December one thousand eight hundred and seventy-three, as may be appointed by Her Majesty in Council.*¹

¹ This section is repealed by 37 & 38 Vict. c. 87, §7, but the Act and the Endowed Schools Acts, 1873 and 1874, and the Welsh Intermediate Education Act, 1889, are continued, as to the powers of making schemes by the Expiring Laws Continuance Act, 1902, until the 31st December 1903.

THE ENDOWED SCHOOLS ACT, 1873.

36 and 37 Victoria, Cap. 87.

AN ACT to continue and amend the Endowed Schools Act, 1869. [5th August 1873.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Constructions of Act and Short Title.

1. This Act shall be construed as one with the Endowed Schools Act, 1869 (in this Act referred to as the principal Act), and *the principal Act and this Act may be cited together as the Endowed Schools Acts, 1869 and 1873, and this Act*¹ may be cited as the Endowed Schools Act, 1873.

¹ The words in italics are repealed by S.L.R. Act, 1893.

Commencement of Act.

2. This Act shall come into operation on the first day of September one thousand eight hundred and seventy-three, which day is in this Act referred to as the commencement of this Act.

Exception of Elementary Schools from 32 & 33 Vict. c. 56, and application thereto of 33 & 34 Vict. c. 75, §75.

3. Where an endowed school, not being a grammar school as defined by the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter seventy-seven,¹ or a department of such a grammar school, is at the commencement of this Act an elementary school² within the meaning of the Elementary Education Act, 1870, and the gross average annual income of the aggregate educational endowments of such school during the three years next before such commencement did not exceed one hundred pounds, in such case after the commencement of this Act nothing in the principal Act shall apply to such school or the endowments thereof, and section seventy-five³ of the Elementary Education Act, 1870, shall apply to such school and the endowments thereof in like manner as if it were a school which, at the commencement of the principal Act, was in receipt of an annual parliamentary grant, and schemes may accordingly be framed, submitted, and approved under the said section with reference to such school and endowments.

Provided, that nothing in this section shall prevent the Commissioners⁴ from making, on the application of the governing body of an endowment of which part only is an educational endowment to which this section applies, a scheme dealing, in pursuance of the principal Act, with the part of such endowment applicable or applied to other charitable uses, and in such case the scheme may deal with the endowed school and endowment thereof in like manner as if this section had not been enacted.

The governing body of every school to which this section applies may, if they think fit, charge such fees to the scholars as may from time to time be approved by the Committee of Council on Education, and shall permit the school to be inspected and the scholars therein to be examined by one of Her Majesty's Inspectors of Schools at such times and in such manner as the Committee of Council on Education may from time to time direct.

The certificate of the Charity Commissioners *for England and Wales* that a school is or is not a school to which this section applies shall be conclusive evidence of the fact for the purposes of the principal Act and this section.

¹ See Grammar Schools Act, 1840, §25 (p. 410).

² See Elementary Education Act, 1870, §3 (p. 196).

³ See the notes to that section (p. 251).

⁴ The powers of the Commissioners under the Endowed Schools Acts are now transferred to the Board of Education so far as they relate to endowments or parts of endowments which are or are to be deemed to be held solely for educational purposes. See note to Endowed Schools Act, 1869, §9 (p. 418), and Board of Education Act, 1899, and orders made thereunder (pp. 391-402).

Extension of Endowed Schools Acts to Endowments, etc. vested in Her Majesty in Right of the Crown or Duchy of Lancaster.

4. Where any endowment, or any right of holding or any power of government of or management over any endowment, or any power of appointing officers, teachers, exhibitioners, or others, either in any endowed school or with emoluments out of any endowment, is vested in Her Majesty in right of her Crown or of the Duchy of Lancaster, the Endowed Schools Act, 1869 and 1873, shall extend to such endowment, right, or powers; and the term 'governing body'¹ in those Acts shall be deemed to include Her Majesty:

Provided that—

- (1.) Any scheme with respect to such endowment, right, or power shall not be approved by the Committee of Council on Education unless Her Majesty assent to such scheme:
- (2.) All notices and documents required to be served on or sent to a governing body for the purposes of the Endowed Schools Acts, 1869 and 1873, may be served on or sent to the Lord Chancellor or the Chancellor of the Duchy of Lancaster, as the case may require:²
- (3.) With the consent of Her Majesty, a scheme may deal with any such right or power without saving or making due compensation therefor:
- (4.) Any assent or consent of Her Majesty required for the purpose of the Endowed Schools Acts, 1869 and 1873, may be signified by Her Majesty's Sign Manual, countersigned by the Lord Chancellor or by the Chancellor of the Duchy of Lancaster, as the case may require.

¹ See Endowed Schools Act, 1869, §7 (p. 417).

² See Endowed Schools Act, 1869, §56 (p. 434).

Amendment of 32 & 33 Vict. c. 56, §11.

5. It shall be the duty of the Commissioners in every scheme to have the same regard to the educational interests of persons in a particular class in life as they are by section eleven of the principal Act required to have to the educational interests of any particular class of persons.

Amendment of 32 & 33 Vict. c. 56, §17, as to Holders of Office being Retained on Governing Body.

6. Where under the express terms of the original instrument of foundation of any endowed school or educational endowment the holder of any particular office is a member of the governing body of the school or endowment, nothing in section seventeen of the principal Act shall be deemed to prevent the holder for the time being of such office from being retained as a member of the governing body of such school or endowment.

Extension of 32 and 33 Vict. c. 56, §19, as to Schools Excepted from the Provisions as to Religion.

7. A scheme relating to any educational endowment originally given to charitable uses since the passing of the Act of the first year of the reign of William and Mary, chapter eighteen (commonly called the Toleration Act),¹ if by the express terms of the original instrument of foundation, or of the statutes or regulations made by the founder, or under his authority in his lifetime, or within fifty years after his death (which terms have been observed down to the commencement of the principal Act), it is required that the majority of the members of the governing body or that the majority of the persons electing the governing body of such endowment, or that the principal teacher employed in the school, or that the scholars educated by the endowment, shall be members of a particular church, sect, or denomination, shall be excepted from the provisions of the principal Act mentioned in section nineteen of the principal Act in like manner as a scheme mentioned in that section, and that section shall be construed as if a scheme relating to such an educational endowment as is above in this section mentioned were a scheme relating to an educational endowment mentioned in subsection two of the said section.

¹ This date is the 13th February 1688.

Amendment of 32 & 33 Vict. c. 56, §25, as to New Endowment mixed with Old Buildings.

8. Whereas by section twenty-five of the principal Act it is enacted as follows: 'Where an endowment or part of an endowment originally given to charitable uses less than fifty years before the commencement of this Act has, by reason of having been spent on school buildings or teachers residences, or playground or gardens attached to such buildings or residences, become so mixed with an old endowment given more than fifty years before the passing of this Act, that in the opinion of the Commissioners (subject to appeal to Her Majesty in Council) it cannot conveniently be separated from such old endowment, then the whole endowment shall for the purposes of this Act be deemed to be an endowment originally given to charitable uses more than fifty years before the commencement of this Act,' and it is expedient to amend the said section: Be it therefore enacted, that—¹

Where it appears to the Commissioners² (subject to appeal to Her Majesty

in Council) that the endowment originally given less than fifty years before the commencement of the principal Act is in value not less than the old endowment and was given under the belief that the whole endowment was attached to some particular church, sect, or denomination, a scheme relating to such endowment shall provide for the giving of religious instruction to the scholars belonging to such church, sect, or denomination.

¹ Repealed by Stat. Law Rev. Act, 1893.

² As to transfer of powers of the Commissioners relating to educational endowments to Board of Education, see note 4 to §3 *supra*.

Scheme as to Endowments in which schools under 31 & 32 Vict. c. 118, are interested.

9. Where two or more schools are jointly interested in an educational endowment, and one of such schools is a school mentioned in section three of 'The Public Schools Act, 1868,' the Commissioners shall not, without the consent of the special Commissioners for the time being under 'The Public Schools Act, 1868,' deal by any scheme with the interest of such last-mentioned school in the endowment, but, with the consent of those Commissioners to the dealing with such interest, may, by a scheme under the principal Act, deal with such interest as well as with all other interests in such endowment.¹

¹ Repealed by Stat. Law Rev. Act, 1883.

Explanation of 32 & 33 Vict. c. 56, §28, as to Alteration of Schemes.

10. A provision inserted in pursuance of section twenty-eight of the principal Act in any scheme, whether made before or after the passing of this Act, shall not be deemed to give the Charity Commissioners¹ for England and Wales any power to alter any portions of such scheme except by a scheme established in pursuance of the Acts for the time being in force relating to such Charity Commissioners, or any of those Acts, and upon the same application, and after the same procedure and notices, and subject to the same right of appeal as a scheme established under those Acts by the Charity Commissioners in the exercise of their ordinary jurisdiction.

¹ By the Board of Education Act and Orders made thereunder all powers conferred on the Charity Commissioners and their officers by any scheme made under the Endowed Schools Acts are, so far as those powers relate to endowments or parts of endowments held or deemed to be held solely for educational purposes, transferred to the Board of Education (p. 401).

Alteration of Religious Instruction.

11. Where a scheme under the principal Act gives the governing body of any endowed school power to make regulations respecting the religious instruction given at such school, the scheme shall also provide for any alteration in such regulations not taking effect until the expiration of not less than one year after notice of the making of the alteration is given.

Amendment of 32 & 33 Vict. c. 56, §§34 to 36, as to time for objections to Schemes.

12. Whereas by section thirty-four of the principal Act it is provided as follows: 'During three months after the first publication of the draft of a

'scheme the Commissioners shall receive any objections or suggestions made to them in writing respecting such scheme, and shall receive any alternative scheme submitted to them by the governing body of any endowment to which the scheme of the Commissioners relates'; and it is expedient to reduce the said period of three months to two months:

*Be it therefore enacted, that—*¹

'Two months' shall be substituted for 'three months' in the said section, and all references in the principal Act to the said three months shall be construed to refer to the said two months.

¹ Repealed by Stat. Law Rev. Act, 1893.

Amendment of 32 & 33 Vict. c. 56, §37, as to Approval of Committee of Council on Education to Schemes.

13. The Committee of Council on Education¹ as soon as a scheme is submitted to them shall, before approving the same, cause the scheme to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the first publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme.

After the expiration of the said month the Committee of Council on Education may, if they think fit, approve the scheme or may remit the scheme, with such declaration as the nature of the case seems to them to require, to the Commissioners; and section forty of the principal Act, as to the proceedings where a scheme is remitted with a declaration, shall in such case apply.

The Committee of Council on Education as soon as they approve a scheme shall forthwith cause the scheme so approved to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that unless within two months after the publication of the scheme when approved a petition is presented in pursuance of the principal Act to Her Majesty in Council against the scheme, or such petition as in this section mentioned is presented to the Committee of Council on Education, such scheme may be approved by Her Majesty without being laid before Parliament.

During the said two months a petition praying that the scheme may be laid before Parliament may be presented to the Committee of Council on Education by the governing body of the endowment to which the scheme relates, or by the council of any municipal borough directly affected by the scheme, or by any inhabitant ratepayers (not less than twenty) of any municipal borough or place directly affected by the scheme.²

¹ The Board of Education (Powers) Order in Council, 1901 (Schedule), provides that the Board shall, before finally settling the draft of any scheme, cause all such steps to be taken as are required to be taken before any scheme is submitted to the Committee of Council on Education, and such final settlement shall take the place of the approval required by the Endowed Schools Acts, and accordingly the Board is to cause the scheme to be published and circulated as is required by this section (p. 400). A similar provision, in respect of any scheme regulating an endowment held for, or applicable to, educational purposes in Wales or the county of Monmouth, was contained in the Second Schedule of the Order of 1900 (p. 397).

² A scheme having been submitted relating to Berriew School, twenty inhabitant ratepayers duly petitioned that the scheme might be laid before Parliament, but twelve of them having expressed a desire to withdraw their signatures to the petition, the

scheme was approved by Her Majesty without being laid before Parliament as if no such petition had been presented. An opinion was given which was confirmed by the Law Officers that the Order in Council approving the scheme was invalid and ought to be annulled, and that having regard to the provisions in §§45 to 47 of the Endowed Schools Act, 1869, the Order in Council could not safely be treated as null and void. (Hansard, 4th Series, 48: 762 to 778.) The Clerk to the Privy Council having expressed his opinion that the Order could not be annulled except by an Act of Parliament, an Act annulling the Order was passed (60 and 61 Vict. c. lxvii).

Amendment of 32 & 33 Vict. c. 56, §39, as to appeal to Queen in Council.

14. Whereas by section thirty-nine of the principal Act it is provided that Her Majesty may by Order in Council refer any petition to Her Majesty in Council for the consideration and advice of five members at the least of her Privy Council, of whom two, not including the Lord President, shall be members of the Judicial Committee, and it is expedient to provide that such petition should be heard by persons of legal experience: Be it therefore enacted, that—¹

Every such¹ petition to Her Majesty in Council in pursuance of section thirty-nine of the principal Act shall be referred to the Judicial Committee of Her Majesty's Privy Council in like manner as if it were an appeal from a court from which an appeal lies to Her Majesty in Council, and the Judicial Committee shall hear and deal with such petitions in like manner as such appeals, and shall have the same power with respect to the costs of parties to the petition and otherwise as they have with respect to any such appeal, and shall make to Her Majesty a report or recommendation thereon (the nature of which shall be stated in open court) in like manner as in the case of any such appeal.

Any power by the Supreme Court of Judicature Act, 1873, conferred on Her Majesty of directing that appeals which ought to be heard by the Judicial Committee shall be heard by the appellate branch of such Court shall, if Her Majesty in Council thinks fit so to direct, apply to petitions presented in pursuance of the said section thirty-nine in like manner as if they were appeals, and if either an Order in Council relating to other appeals or any separate Order in Council direct that such petitions be referred for hearing to and be heard by the appellate branch of the said Court, the same shall be referred to and heard by that branch of the Court accordingly.²

¹ The first paragraph and the word 'such' are repealed by Stat. Law Rev. Act, 1893.

² The last paragraph is repealed by Stat. Law Rev. Act, 1883.

*Laying of Schemes before Parliament, and Approval of
Her Majesty in Council.*

15. If, at the expiration of the time for a petition to Her Majesty in Council against any scheme, no such petition has been presented, and no petition praying that the scheme be laid before Parliament has been presented in pursuance of this Act to the Committee of Council on Education, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme without the same being laid before Parliament.

If any such petition has been presented, the scheme shall be laid before both Houses of Parliament, and shall be so laid forthwith, if Parliament is then sitting, after the expiration of the time for the presentation of a petition to Her Majesty in Council, or (if a petition is presented to Her Majesty in Council against the scheme) after any later date at which the petition is withdrawn, or Her Majesty in Council directs the scheme to be laid before Parlia-

ment, and if Parliament be not then sitting, shall be so laid within three weeks after the beginning of the next ensuing session of Parliament;¹ and if such scheme has lain before Parliament for not less than two months during the same session, then unless an address has been presented within such two months by one or other of the Houses of Parliament praying Her Majesty to withhold her consent from such scheme or any part thereof, it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme or any part thereof to which such address does not relate.

¹ The Order in Council approving the scheme relating to Berriew School referred to in the note to §13 above having been annulled as therein stated, the scheme was duly laid before Parliament, and the House of Lords presented an address praying Her Majesty to withhold her consent from such scheme, and this Her Majesty did.

Annual Report.

16. The Commissioners shall make to the Committee of Council on Education in every year a report of their proceedings under the principal Act and this Act, and such report shall be laid before Parliament. Such report shall describe all schemes not laid before Parliament which have been approved by Her Majesty during the year for which such report is made.¹

¹ The Board of Education (Powers) Orders in Council, 1902, §2 (1) (b) provides that this report shall now be made to His Majesty the King (p. 401).

Continuance of Powers of making Schemes.

17. *The power of making and approving a scheme under the principal Act as amended by this Act shall continue as respects unopposed schemes until thirty-first December one thousand eight hundred and seventy-four, and as respects schemes against which a petition shall have been presented to the Committee of Council on Education, as in this Act provided, until the fifteenth August one thousand eight hundred and seventy-four, and no longer.*¹

¹ Repealed by 37 & 38 Vict. c. 87, §7, and replaced by §6 of that Act (p. 445).

Graduate of any University of the United Kingdom, if otherwise fit, shall be held qualified where the Statutes require the Head master to be a Graduate of Oxford or Cambridge.

18. Whenever according to the rules, regulations, statutes, trusts, or constitution of any school, being an endowed school within the meaning of 'The Endowed Schools Act, 1869,' and with regard to which the said Commissioners are thereby empowered to make a new scheme, the head master or any other master is required to be a graduate of some specified university or universities, a graduate of any university of the United Kingdom having the degree which would be a qualification if it had been granted by one of the said specified universities shall in future, if otherwise qualified, be eligible as such head master or other master.

Application of Act to Schemes laid before Parliament during present Session.

19. *Where a scheme has been laid before Parliament during the present session, but has not at the expiration of such session lain for forty days before Parliament, and no address has been presented by either House of Parliament praying Her Majesty to withhold her consent from such scheme or any part*

thereof, the Committee of Council on Education may, if they think fit, cause to be published and circulated, in such manner as they think sufficient for giving information to all persons interested, a notice stating that unless within two months after the first publication of the notice such petition as is in this section mentioned is presented to the Committee of Council on Education such scheme may be forthwith approved by Her Majesty.

During the said two months a petition praying that the scheme may lie before Parliament during two months as directed by this Act may be presented to the Committee of Council on Education by any governing body, council, or rate-payers, who would, if such scheme were approved by such Committee after the commencement of this Act, be authorised by this Act to present a petition praying that such scheme may be laid before Parliament.

If no such petition is presented within the said two months it shall be lawful for Her Majesty by Order in Council to declare her approbation of such scheme in like manner as if it had lain for forty days before Parliament in accordance with the principal Act.

Any scheme to which this section applies and which is not approved by Her Majesty under this section shall continue to lie before Parliament, and the provisions of this Act shall apply in like manner as if such scheme had been laid before Parliament in pursuance of this Act.

Sections 19, 20 and the Schedule are repealed by the Stat. Law Rev. Act, 1883.

Repeal.

20. The principal Act is hereby repealed as from the commencement of this Act to the extent mentioned in the third column of the schedule to this Act: Provided, that this repeal shall not—

- (a.) Affect anything duly done or suffered under any enactment hereby repealed; or
- (b.) Affect any right, obligation, or liability acquired or incurred under any such enactment; or
- (c.) Affect any legal proceeding or remedy in respect of such right, obligation, or liability.

SCHEDULE.

A description or citation of a portion of an Act is inclusive of the words or other part first or last mentioned or otherwise referred to as forming the beginning or as forming the end of the portion comprised in the description or citation.

Session and Chapter.	Title.	Extent of Repeal.
32 & 33 Vict. c. 56 .	The Endowed Schools Act, 1869.	Section thirty-seven down to 'all persons 'interested,' section thirty-nine from 'Her Majesty by Order in Council may refer 'any such petition,' down to 'information 'for obtaining a scheme,' and section forty-one, except as regards schemes which have lain for forty days before Parliament before the commencement of this Act.

THE ENDOWED SCHOOLS ACT, 1874.

37 and 38 Victoria, Cap. 87.

AN ACT to amend the Endowed Schools Acts.

[7th August 1874.]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

TRANSFER OF POWERS.

Transfer of powers of Endowed Schools Commissioners to Charity Commissioners.

1. *On and after the thirty-first day of December one thousand eight hundred and seventy-four* all powers and duties by the Endowed Schools Acts vested in or imposed on the Endowed Schools Commissioners shall be transferred to and imposed on the Charity Commissioners,¹ and, except as otherwise provided by this Act, shall be exercised and performed by the Charity Commissioners in like manner and form and subject to the same conditions, liabilities, and incidents respectively as such powers and duties have been exercised and performed by the Endowed Schools Commissioners, or as near thereto as circumstances permit.

*On and after the thirty-first day of December one thousand eight hundred and seventy-four the commissioners, secretary, assistant commissioners, and other persons appointed and employed in pursuance of the Endowed Schools Acts shall cease to hold office.*²

¹ By the Board of Education Act, 1899, and Orders made thereunder, all powers conferred on the Charity Commissioners and their officers by the Endowed Schools Acts so far as they relate to endowments or parts of endowments held or deemed to be held solely for educational purposes are transferred to the Board of Education (pp. 391-402).

² The last paragraph is repealed by the Stat. Law Rev. Act, 1883 : the commencement down to 'seventy-four' is repealed by Stat. Law Rev. Act, 1893.

Power to add to Charity Commissioners.

2. *Her Majesty and her successors* may at any time after the passing of this Act, by warrant under her sign manual, from time to time appoint any number of persons not exceeding two to be paid Charity Commissioners¹ for England and Wales and a person to be secretary in addition to the three paid Charity Commissioners and secretary capable of being appointed under the

Charitable Trusts Acts, 1853 to 1869. The two additional Commissioners and additional secretary appointed in pursuance of this Act shall hold office during Her Majesty's pleasure, *and their salaries shall, unless otherwise directed by Parliament, cease to be paid after the expiration of five years from the said thirty-first day of December one thousand eight hundred and seventy-four.*

Save as in this section mentioned, the additional Commissioners shall have the same powers, perform the same duties, and stand in all respects in the same position as the other paid Charity Commissioners with the exception of the Chief Commissioner.

The Commissioners of Her Majesty's Treasury may allow the Charity Commissioners to employ such number of assistant commissioners,¹ officers, and clerks as the Commissioners of Her Majesty's Treasury may think necessary for the purpose of enabling the said Charity Commissioners to perform the additional duties imposed upon them by this Act.

The words in italics are repealed by Stat. Law Rev. Acts, 1893 and 1898.

¹ The Board of Education (Powers) Order in Council, 1900, Schedule II., provided that references to a Charity Commissioner shall be construed as references to a member of the Board of Education (*see* Board of Education Act, 1899, §1, p. 391), references to Assistant Charity Commissioners shall be construed as references to inspectors and other officers of the Board of Education: and references to the Secretary and other officers of the Charity Commissioners shall be construed as references to the Secretary and other officers of the Board of Education. *See also* Board of Education (Powers) Order in Council, 1902, §2 (1) (a) (p. 401).

Salaries of Charity Commissioners and their officers.

3. *There shall be repealed so much of the Charitable Trusts Acts, 1853 to 1869, as regulates the amounts of the salaries of the Commissioners, their secretary and inspectors; and there shall be paid to the Commissioners, their secretary or secretaries, assistant commissioners, inspectors, officers, and clerks, whether appointed under this Act or under the said Charitable Trusts Acts, out of moneys provided by Parliament, such salaries as the Treasury may from time to time determine: Provided that no decrease shall be made in pursuance of this section in the salary of any Charity Commissioner, secretary, inspector, officer, or clerk appointed before the passing of this Act under the said Charitable Trusts Acts, or any of them.*¹

¹ Section 3 to 'inspectors and' is repealed by Stat. Law Rev. Act, 1883.

AMENDMENT OF LAW.

Exercise of certain Powers by Charity Commissioners.

4. Any power by the Endowed Schools Act, 1869, vested in the Charity Commissioners, upon application made to them by the Commissioners under the said Act, *may after the said thirty-first day of December one thousand eight hundred and seventy-four* be exercised by the Charity Commissioners of their own motion.¹

The words in italics are repealed by Stat. Law Rev. Act, 1893.

¹ The effect of this section is now to enable the Board of Education to initiate proceedings in relation to any endowment or part of an endowment which is held or deemed to be held solely for educational purposes wherever the Endowed Schools Commissioners could have done so, under the Endowed Schools Acts. By §78 of the Elementary Education Act, 1870 (*see note to that section, p. 252*), the Board of

Education also have the power to initiate proceedings under §54 of the Charitable Trusts Act, 1853, in respect of any elementary school to which the Charitable Trusts Acts, 1853 to 1869, are applicable. In all such proceedings the Board of Education will have all the powers of the Charity Commissioners and their officers, except those of the official trustees, so far as those powers relate to endowments solely for educational purposes. The importance of these wide powers in enabling the Board of Education to assist in the co-ordination of all forms of education is referred to on p. 383.

Quorum of Commissioners.

5. A scheme of the Charity Commissioners made in pursuance of the powers of this Act and the Endowed Schools Acts, or any of them, shall not be submitted to the Committee of Council on Education unless it has been approved at a meeting of the Board at which there are present not less than three Commissioners (of whom one shall be the Chief Commissioner, or, in his absence from illness or unavoidable cause, such other Charity Commissioner as may for the time being be named by the Committee of Council on Education); in all other respects one Charity Commissioner may act under the Endowed Schools Acts as amended by this Act.

MISCELLANEOUS AND REPEAL.

Continuance of powers transferred to Charity Commissioners.

6. *The powers of making schemes under the Endowed Schools Acts as amended by this Act shall continue in force for a period of five years from the said thirty-first day of December one thousand eight hundred and seventy-four; and during the continuance of such powers any court or judge shall not, with respect to any endowed school or educational endowment which can be dealt with by a scheme under this Act and the Endowed Schools Acts, or any of such Acts, make any scheme or appoint any new trustees without the consent of the Committee of Council on Education.*¹

¹ The words in italics are repealed by Stat. Law Rev. Act, 1898. The powers of making schemes have been continued by the Expiring Laws Continuance Acts up to the 31st December 1903.

Repeal of Acts.

7. *On and after the said thirty-first day of December one thousand eight hundred and seventy-four the enactments set forth in the schedule annexed hereto shall be repealed to the extent to which such enactments are therein expressed to be repealed.*

Provided that the repeal enacted in this Act shall not affect—

- (1.) *Anything duly done under any enactment hereby repealed:*
- (2.) *Any right or privilege acquired or any liability incurred under any enactment hereby repealed.*¹

¹ Sections 7 and 8 are repealed by the Stat. Law Rev. Act, 1883.

Saving Clause as to certain Schemes.

8. *Notwithstanding the seventeenth section of the Endowed Schools Act, 1873, any scheme which has before the passing of this Act been submitted by the Endowed Schools Commissioners to the Committee of Council on Education for approval may be proceeded with.*

Provided, that with respect to every such scheme which has not been approved by the Committee of Council on Education before the passing of this Act, such Committee shall before approving the same cause such scheme, after the passing of this Act, and that notwithstanding any prior publication and notice, to be published and circulated in such manner as they think sufficient for giving information to all persons interested, together with a notice stating that during one month after the publication of such notice the Committee of Council on Education will receive any objections or suggestions made to them in writing respecting such scheme.

Definitions.

9. In this Act, so far as is consistent with the context, the expressions following have the meanings hereafter assigned to them; that is to say,

The expression 'The Endowed Schools Acts' means the Endowed Schools Acts, 1869 and 1873:

The expression 'The Endowed Schools Commissioners' means the Commissioners appointed in pursuance of the Endowed Schools Act, 1869:

*The expression 'The Charity Commissioners' means the Charity Commissioners for England and Wales.*¹

¹ This definition is now supplied by the Interpretation Act, 1889, §12, and this paragraph is repealed by Stat. Law Rev. Act, 1893.

Construction and Short Title.

10. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the Endowed Schools Acts, as amended by this Act; and in the construction of the Endowed Schools Acts the expression 'the Commissioners' shall, unless there is something in the context inconsistent therewith, *on and after the said thirty-first of December one thousand eight hundred and seventy-four*, mean the Charity Commissioners;¹ *and this Act and the other Acts mentioned in this section may be cited together as the Endowed Schools Acts, 1869, 1873, and 1874, and this Act may be cited separately as 'The Endowed Schools Act, 1874.'*

The words in italics repealed by Stat. Law Rev. Act, 1893.

¹ Or now members of the Board of Education. See note to §2 *supra*, p. 444.

*SCHEDULE.*¹

Acts partly repealed on and after the thirty-first day of December one thousand eight hundred and seventy-four.

<i>Session and Chapter.</i>	<i>Abbreviated Title.</i>	<i>Extent of Repeal.</i>
32 & 33 Vict. c. 56, .	<i>The Endowed Schools Act, 1869.</i>	<i>The first paragraph of section fifty-two, and the whole of sections thirty-one, forty-eight, and fifty-nine.</i>
36 & 37 Vict. c. 87, .	<i>The Endowed Schools Act, 1873.</i>	<i>Section Seventeen.</i>

¹ The Schedule is repealed by Stat. Law Rev. Act, 1883.

THE WELSH INTERMEDIATE EDUCATION ACT, 1889.

52 & 53 Victoria, Chap. 40.

AN ACT to promote Intermediate Education in Wales.

[12th August 1889.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PRELIMINARY.

Short Title and Construction.

1. This Act¹ may be cited for all purposes as the Welsh Intermediate Education Act, 1889, and shall, so far as is consistent with the tenor thereof, be construed as one with the Endowed Schools Acts,² and may be cited together with those Acts as the Endowed Schools Acts, 1869 to 1889. This Act shall come into operation on the first day of November next after the passing thereof, which day is in this Act referred to as the commencement of this Act.

¹ For the effect on the provisions of this Act of the Education Act, 1902, *see* the note to §17 (8) of that Act.

² The effect of incorporating this Act with the Endowed Schools Acts is to give to all funds included, on the recommendation of a county or county borough council, in a scheme made under the Act, the character of permanent charitable endowment, and to bring these new funds, as well as those derived from ordinary endowments, under the permanent jurisdiction exercised by the Board of Education (as successors for this purpose to the Charity Commissioners) under the Charitable Trusts Acts (*see* §3 (5), *infra*, and §28 of the Endowed Schools Act, 1869, and the note thereon).

For the transfer of powers relating to this Act from the Charity Commissioners to the Board of Education *see* the Board of Education (Powers) Orders in Council, 1900 to 1902, especially the latter part of the Order of the 7th August, 1900.

Purpose of Act.

2. The purpose of this Act is to make further provision for the intermediate and technical education¹ of the inhabitants of Wales and the county² of Monmouth.

¹ For the meaning of the expressions 'intermediate education' and 'technical education' *see* §17, *infra*, but *see* also the note to §17 (8) of the Education Act, 1902.

² In this Act the expression 'county' includes a county borough within the meaning of the Local Government Act, 1888 (§16 (1), *infra*).

SCHEMES FOR INTERMEDIATE EDUCATION.

Schemes by Joint Education Committee.

3.—(1.) It shall be the duty of the joint education committee¹ as hereinafter mentioned of every county in Wales and of the county of Monmouth to submit to the Charity Commissioners a scheme or schemes for the intermediate and technical education of the inhabitants of their county, either alone or in conjunction with the inhabitants of any adjoining county or counties, specifying in each scheme the educational endowments within their county which in their opinion ought to be used for the purpose of such scheme.²

(2.) A county council may recommend³ their committee to insert in such scheme a provision for a payment out of the county rate to an amount not exceeding that in this Act mentioned of the expenses of carrying into effect the scheme, or any particular part thereof, and such provision may accordingly, if it is thought fit, be inserted in the scheme.

(3) Such scheme, if the Commissioners (after such examination or inquiry as mentioned in section thirty-two of the Endowed Schools Act, 1869) approve it, either without modification, or with such modifications as may be assented to by the joint education committee, shall be adopted and proceeded on by the Commissioners in the same manner as if it were a draft scheme originally prepared by themselves.

(4.) If the scheme is not so adopted by the Commissioners, it shall be deemed to be a scheme prepared and submitted by a governing body to the Commissioners within the meaning of section thirty-two of the Endowed Schools Act, 1869, and shall be dealt with accordingly.

(5.) Where a county council recommend a payment out of the county rate a scheme may be made in pursuance of this Act, although there is no other endowment.⁴

(6.) The Charity Commissioners may, if they think fit, accept a joint scheme from two or more joint education committees.

(7.) A joint education committee may, instead of submitting a scheme, submit to the Charity Commissioners proposals for a scheme, and such proposals may include, if so recommended by the county council, a payment out of the county rate; and the Commissioners shall prepare a scheme for carrying into effect such proposals, either with or without modifications, but any modification to which the joint education committee do not assent shall be struck out of the scheme, and the scheme as so prepared, with the omission of any modification to which the joint education committee do not assent, shall be deemed for the purposes of this section to be a scheme submitted by a joint education committee to the Charity Commissioners, and the Commissioners shall proceed accordingly.

¹ The principal function of the joint education committees, established in the manner prescribed by §5 of the Act, was to prepare schemes providing for the constitution of 'County Governing Bodies,' and for the financial and educational administration of the system contemplated by the Act, either by those bodies, or, with respect to certain details of the work, by local governing bodies. These schemes were to be proceeded with by the Charity Commissioners on the lines, subject to the modifications prescribed by the Act, of their usual procedure under the Endowed Schools Acts.

² There does not seem to be anything to prevent the joint education committee from specifying and including in a scheme any endowment, although it is excepted from the operation of the Endowed Schools Acts, but an essential element in the making of any scheme is the Order in Council approving such scheme and the only

authority for the giving of such approval and the making of such order is contained in the Endowed Schools Act, 1869, as amended, and it therefore follows that a scheme under this Act (which is by §17 defined to mean a scheme under the Endowed Schools Acts as amended by this Act) must recognise the exceptions contained in the Endowed Schools Act, 1869, §14, and cannot interfere with any endowment within the first subsection of that section without the consent of the governing body.

³ Every county and county borough in Wales and Monmouthshire has rated itself to the full amount (one halfpenny in the pound, §8 (3), *infra*) allowed by the Act.

⁴ See the second note to §1, *supra*.

In addition to the schemes made for each county and county borough, a further scheme was made constituting a central body, the principal specific function of which was the examination and inspection of the county schools for the purposes of the award of the Treasury grant payable under §9, *infra*. This body, which was named the Central Welsh Board for Intermediate Education, is formed for the most part by the appointment of representatives of the various educational interests of Wales and Monmouthshire, the county councils appointing twenty-one, and the county governing bodies twenty-six out of a total number of eighty. The scheme further provided for the exercise by the Board, or by its executive committee, of certain other functions of an educational or administrative nature.

The funds for the administration of which this scheme makes provision are:—

(a) A uniform yearly contribution to be paid by the county governing body of each county and county borough, being not more than five per cent. of its total revenue for the preceding year.

(b) A yearly contribution by the Treasury of £500, made in recognition of the fact that the Board relieves the Treasury of the duty to provide inspection (§9 (2), *infra*).

(c) Any additional donations or endowments which may hereafter be received.

This scheme came before the Charity Commissioners technically in the form of identical proposals for a scheme submitted by all the several joint education committees without exception.

Under §17 (8) of the Education Act, 1902, any scheme for establishing an education committee in Wales or Monmouth, or the county borough of Newport must provide that the county governing body shall cease to exist, and must make provision for the transfer of the powers, duties, property, and liabilities of any such body to the local education authority under that Act. The Act does not, however, necessarily affect the constitution and powers of the Central Welsh Board, except so far as it substitutes the county or county borough council for the county governing body as a body appointing representatives on the Board, and paying a yearly contribution thereto. One effect of this substitution will be that, as the scheme stands at present, county and county borough councils will have the right to nominate forty-seven members out of the total of eighty.

Restrictions on Powers of Joint Education Committee.

4.—(1.) A joint education committee shall not without the assent of the county council direct by their scheme any contribution to be made out of the county rate exceeding the amount recommended by the county council.

(2.) Where any part of the expenses of the establishment or maintenance of a school or of scholarships attached thereto is to be defrayed out of the county rate a scheme relating to such school shall provide that the county council shall be adequately represented on the governing body of such school.

(3.) Where a scheme under this Act does not relate to a school maintained out of the endowment, or forming part of the foundation, of any cathedral or collegiate church, or where a scheme under this Act does not relate to any other educational endowment which by section nineteen of the Endowed

Schools Act, 1869, is excepted from the foregoing provisions of that Act therein mentioned, such scheme shall, in addition to the provisions of section fifteen of the said Act, provide that no religious catechism or religious formulary which is distinctive of any particular denomination shall be taught to a scholar attending as a day scholar at the school established or regulated by the scheme, and that the times for prayer or religious worship or for any lesson or series of lessons on a religious subject shall be conveniently arranged for the purpose of allowing the withdrawal of a day scholar therefrom in accordance with the said section fifteen.

(4.) Where any power of appeal to the Queen in Council, or power to present a petition praying that a scheme may be laid before Parliament, is given by the Endowed Schools Acts to any persons or body of persons in relation to any endowment, a like power may be exercised by a county council required by the scheme to contribute a sum out of the county rate, or by a joint education committee in relation to any matter which has been introduced into the scheme against the wishes of the county council or committee, as the case may be, as expressed in objections sent in writing to the Charity Commissioners before the scheme was submitted by those Commissioners for the approval of the Education Department.

CONSTITUTION AND POWERS OF JOINT EDUCATION COMMITTEE.

Establishment of Joint Education Committee.

5. For the purposes of this Act there shall be appointed in every county in Wales and in the county of Monmouth a joint education committee of the county council of such county consisting of three persons nominated by the county council, and two persons, being persons well acquainted with the conditions of Wales and the wants of the people, preference being given to residents within the county for which such joint committee is to be appointed, nominated by the Lord President of Her Majesty's Privy Council. Any vacancy in the joint education committee among the persons appointed by the county council may be filled up by the county council, and any vacancy among the persons nominated by the Lord President may be filled up by the Lord President.¹

¹ For the duration of the powers of the joint education committees, see §11 and the note thereon, *infra*.

Transaction of Business by and Proceedings of Joint Education Committee.

6.—(1.) Sub-sections¹ one and two of section eighty-two of the Local Government Act, 1888, respecting the proceedings of committees of county councils, shall apply to proceedings of the joint education committee of a county council under this Act, but the acts and proceedings of the committee shall not be required to be submitted to the county council for their approval.

(2.) The county council shall make proper provision for enabling the committee to transact its business, and the clerk of the county council shall act as the clerk of the joint education committee. Any act of the committee may be signified under the hands of any three members thereof or under the hand of the clerk.

(3.) Any of the assistant commissioners of the Charity Commissioners shall be at liberty to attend any meeting of a joint education committee, and to take part in the proceedings, but shall not have a right to vote.

¹ These subsections deal with the making of regulations by the county council

respecting the quorum and proceedings of a committee appointed by the county council, and as to the area (if any) within which it is to exercise its authority, and with the making of reports by the committee to the council.

*Contributions from County Rate.*¹

7.—(1.) Where a county council has recommended that any scholarship should be paid out of the county rate a scheme under this Act may contain provisions to that effect.

(2.) Where a county council has recommended that any annual contribution should be made out of the county rate a scheme under this Act may direct the contribution so recommended or any less contribution to be made accordingly, and shall specify the persons to whom the contribution so directed to be made is from time to time to be paid.

(3.) The recommendation of a county council in respect of a contribution out of the county rate, and a scheme giving effect to such recommendation, may provide that such contribution shall be either a fixed annual sum, or an annual sum not exceeding a certain amount, such amount to be determined annually in manner specified in the scheme.

(4.) The annual contribution to be paid to any school out of the county rate in pursuance of any scheme shall not exceed the amount stated in such scheme, but may be reduced by an amending scheme made on the application of the county council or of the governing body of such school.

¹ As to the limit imposed by this Act to the amount of the contribution from the county rate, see §8 (3), *infra*.

FINANCE.

Expenses of County Council.

8.—(1.) Where a scheme under this Act providing for a contribution out of a county rate comes into operation, the amount from time to time payable out of the county rate in pursuance of such schemes shall be paid by the county council out of the county fund.

(2.) That amount and any expenses otherwise incurred by a county council in pursuance of this Act shall be paid as general expenses of the county council.

(3.) The addition made to the county rate in any county for the purpose of defraying contributions for intermediate and technical education under this Act shall not in any year exceed one halfpenny in the pound, on the aggregate amount of the rateable value of the property in the county, as ascertained for the purpose of the levy of the county contributions.¹

(4.) Every increase of rate levied under this section shall, in all precepts for the levy thereof, be described as a separate item of rate, and when collected from the individual ratepayers shall be specified as a separate item of rate.

¹ The limitation to the rate prescribed by subsection (3) did not prevent the application by the county council of the proceeds of any rate which they might levy under the Technical Instruction Act, 1889 (p. 349), to the purposes of this Act. In one county special provision for building the schools which would be required was made, by means of this rate, during the progress of the preliminary proceedings in connection with the approval of the county scheme. Further, the 'residue grant' (p. 354) was, by the Local Taxation (Customs and Excise) Act, 1890, §1 (4) made applicable, at the discretion of the county council, to the purposes of this Act, and about three-fourths of this grant has in fact been thus applied. See the note to that subsection, p. 355.

See, however, the note to §17 (8) of the Education Act, 1902.

Contribution from Treasury.

9.—(1.) The Commissioners of Her Majesty's Treasury shall annually out of moneys provided by Parliament pay in aid of each school aided by the county and subject to a scheme made under this Act such sums as hereinafter mentioned.

(2.) The sums to be so paid shall depend on the efficiency of the schools aided by the county, as ascertained by such annual inspection and report as may be required by the regulations from time to time made by the Treasury for the purposes of this section, and shall be of such amounts as may be fixed by those regulations, and shall be paid in manner provided by those regulations.

(3.) The aggregate amount of the sums paid by the Commissioners of Her Majesty's Treasury in any year in respect of the schools in any county shall not exceed the amount payable in that year in pursuance of this Act out of the county rate.

(4.) The Treasury may from time to time make, and, when made, vary and revoke, regulations for the purposes of this section.¹

¹ The Treasury regulations of the 4th June, 1892 (as amended, after the transfer of powers from the Charity Commissioners to the Board of Education, on the 10th November 1900), prescribe conditions of grant in the usual form as to the efficiency of the instruction, the suitability of the premises, and the conduct of the school in accordance with the scheme, and provide for inspection by the Central Welsh Board and by the Board of Education, and for the payment of the grant, with or without reductions, upon a report being made to the Treasury by the Board of Education.

Power to Public Works Loan Commissioners to lend.

10. The purposes for which the governing body of a school may be authorised in pursuance of this Act to borrow money shall be purposes for which the Public Works Loan Commissioners may lend to such governing body.¹

¹ It appears doubtful whether this section is an authorisation to the Public Works Loan Commissioners to lend, or an authorisation to the governing body to borrow.

The county schemes made in pursuance of the Act generally contain an authorisation to the governing body to raise money by sale, mortgage, or otherwise, for providing accommodation for day scholars, and for this purpose the governing body act subject to the approval of the Board of Education.

In addition to this authorisation, the governing body may obtain the authorisation of the Board of Education under §21 of the Charitable Trusts Act, 1853, as amended by §15 of the Charitable Trusts Act, 1860, to borrow money on mortgage or charge of the general income of the endowment.

Any proceedings taken by the local education authority as exercising the powers of the county governing body transferred to them by the scheme made under §17 (8) of the Education Act, 1902, will be independent of any proceedings taken by the local education authority under §19 of that Act as to borrowing for the purposes of the Act.

SUPPLEMENTAL PROVISIONS.

Duration of Powers of Joint Education Committee, and Suspension of Powers of Charity Commissioners.

11. The powers conferred by this Act on a joint education committee shall not, unless Parliament otherwise directs, be exercised by the committee after the expiration of three years¹ from the date of the commencement of this Act, and, during the continuance of the powers of the committee

under this Act, all powers which otherwise might have been exercised by the Charity Commissioners of making, establishing, or submitting (independently of any scheme submitted by the joint education committee) a scheme for the administration of any educational endowments within the county of such committee, shall, except with the consent of the Education Department,² be suspended, and not be exercised by them in relation to such endowments. Nothing in this Act shall prevent any proceedings under the Endowed Schools Acts in relation to any scheme of which a draft has been prepared, published, and circulated before the commencement of this Act, in pursuance of sections thirty-two and thirty-three of the Endowed Schools Act, 1869, and such scheme may be proceeded with, submitted for approval, and come into operation as if this Act had not passed.

¹ The powers of the joint education committees, which would have expired under the provisions of this section in 1892, have been extended from year to year by the Expiring Laws Continuance Act, and are at the present date extended till the 31st December 1903.

² Such suspension of the initiatory powers of the Charity Commissioners as was imposed by this section has been removed by the transfer of these powers to the Board of Education under the Board of Education Act, 1899, and the Board of Education (Powers) Order, 1900 (see pp. 391 and 396).

Description of Endowments applicable to Purpose of Act.

12.—(1.) An educational endowment within the county of a joint education committee means any educational endowment which is applied in the county or is appropriated for the benefit of the natives or inhabitants of the county, or of some of such natives or inhabitants, or their children, or where the benefits of such endowment are divisible between two counties or between the counties in Wales and the county of Monmouth, or any of them, and any place outside of Wales and the county of Monmouth, then means so much of the endowment as the Charity Commissioners may determine to be applicable for the benefit of the county of the joint education committee.

(2.) Any school or endowment of a school to which section seventy-five of the Elementary Education Act, 1870, applies, and any endowed school to which section three of the Endowed Schools Act, 1873, applies, shall, if the school is in the county of a joint education committee under this Act, be for the purposes of the Endowed Schools Acts and this Act an educational endowment and endowed school within the county of such committee.¹

¹ For the sections referred to see pp. 250 and 435. The Charity Commissioners have stated (in the paper which they contributed to Volume II. of the Special Reports on Educational Subjects issued by the Education Department in 1898):—

The endowments included in the County Schemes were those which appeared to be important for the purpose of effective organisation. Other endowments have, in some counties, been dealt with in separate schemes, with the object in most cases of supplementing the funds available for scholarships. But in the majority of the counties the less important endowments have been let alone, the financial and other advantages to be obtained by interference with them being generally considered incommensurate with the difficulties to be overcome.

Construction of Act in Relation to Endowments applicable to Purposes thereof.

13. For the purposes of any scheme under this Act every notice relating to the scheme shall be sent to the joint education committee concerned therein in

like manner as if they were a governing body, and such committee shall, during the duration of their powers under this Act, have the same power of applying to the Charity Commissioners with respect to any educational endowment within their county as if they were the governing body of that endowment. Nothing in this Act shall authorise the making of any scheme interfering with:—

- (1.) Any endowment given either by present gift made subsequently to the passing of the Endowed Schools Act, 1869, or by the will of a testator who died subsequently to the passing of the said Act, unless the founder or governing body of such endowment assents to the scheme.¹

In the case of an endowment or part of an endowment given either by present gift made subsequently to the passing of the Endowed Schools Act, 1869, or by the will of a testator who died subsequently to the passing of the said Act, sections twenty-five and twenty-six² of the said Act shall for the purposes of a scheme under this Act, and subject to the provisions of this Act, apply in like manner as if the same and any older endowment or part of an endowment were respectively in the said sections substituted for an endowment or part of an endowment originally given to charitable uses less or more than fifty years before the commencement of the said Act.

¹ In addition to this exception the exceptions contained in the Endowed School Acts take effect to prevent the making of schemes in respect of the endowments to which they relate (*see note to §3 of this Act*), since, even if schemes which would contravene those exceptions are initiated under this Act, the Order in Council which is made under the Endowed Schools Acts must comply with them. Thus it will not be right for such schemes to deal with the schools excepted by §8 (1), (2) and (4) to (7) of the Endowed Schools Act, 1869, or by §3 of the Endowed Schools Act, 1873, nor without the consent of the governing body to interfere with the modern endowments specified in §14 (1) of the Endowed Schools Act, 1869, and as regards elementary schools, *see Elementary Education Act, 1870, §75.*

² For the sections referred to *see p. 424*, and for §8 of the Endowed Schools Act, 1873, amending §25, *see p. 437.*

Exemption of Schemes from certain Provisions of Endowed Schools Acts.

14. Nothing in the Endowed Schools Acts which is inconsistent with any of the provisions of this Act shall apply in the case of any scheme under this Act, but subject to this enactment the powers conferred by this Act shall be in addition to, and not in derogation of, the powers under the said Act.

Report by Charity Commissioners.

15. The Charity Commissioners shall in every year cause to be laid before both Houses of Parliament a report of the proceedings under this Act during the preceding year.

Application of Act to Counties and County Boroughs.

16.—(1.) In this Act the expression ‘county’ means an administrative county as defined in the Local Government Act, 1888, and includes a county borough within the meaning of that Act; and the expression ‘county council’ includes the council of a county borough.

(2.) Any sums payable by the council of a county borough in pursuance of this Act shall be paid out of the borough fund or borough rate.

General Definitions.

17. In this Act unless there is something in the context inconsistent therewith—

The expression 'intermediate education' means a course of education which does not consist chiefly of elementary instruction in reading, writing, and arithmetic, but which includes instruction in Latin, Greek, the Welsh and English language and literature, modern languages, mathematics, natural and applied science, or in some of such studies, and generally in the higher branches of knowledge, but nothing in this Act shall prevent the establishment of scholarships in higher or other elementary schools;

The expression 'technical education' includes instruction in—

- (i.) Any of the branches of science and art with respect to which grants are for the time being made by the Department of Science and Art;
- (ii.) The use of tools, and modelling in clay, wood, or other material;
- (iii.) Commercial arithmetic, commercial geography, book-keeping, and shorthand;
- (iv.) Any other subject applicable to the purposes of agriculture, industries, trade, or commercial life and practice, which may be specified in a scheme, or proposals for a scheme, of a joint education committee as a form of instruction suited to the needs of the district;

but it shall not include teaching the practice of any trade, or industry, or employment.

The expression 'Endowed Schools Acts' means the Endowed Schools Acts, 1869, 1873, and 1874;

The expression 'Education Department' means the Lords of the Committee of Her Majesty's Privy Council on Education;

The expression 'Charity Commissioners' means the Charity Commissioners for England and Wales;

The expression 'scholarship' includes exhibition or other educational emolument;

The expression 'parent' includes guardian and every person who is liable to maintain or has the actual custody of a child;

The expression 'scheme under this Act' means a scheme under the Endowed Schools Acts as amended by this Act.

THE CHARITABLE TRUSTS ACT, 1853.

16 & 17 Victoria, Chap. 137.

AN ACT for the better Administration of Charitable Trusts.¹ [20th August 1853.]

*WHEREAS it is expedient to provide Means for securing the due Administration of Charitable Trusts, and for the more beneficial Application of Charitable Funds in certain Cases; Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:—*²

Her Majesty empowered to appoint Charity Commissioners, Secretary, and Inspectors.

1. It shall be lawful for Her Majesty and Her successors,² by warrant under the Royal Sign Manual, to appoint four commissioners,³ and also one secretary and two inspectors,⁴ for the purposes of this Act, and upon any vacancy by the death, resignation, or removal of any commissioner, secretary, or inspector under this Act, from time to time in like manner to appoint another person to succeed to such vacancy, and until a fresh appointment shall be made it shall be lawful for the surviving or continuing commissioners, in case of any vacancy, to act as if no such vacancy had occurred; and three of the said commissioners shall hold office during good behaviour; and the fourth, and every secretary and inspector to be appointed under this Act, shall hold office during the pleasure of Her Majesty.

¹ Any provisions of this Act inconsistent with the Charitable Trusts Amendment Act, 1855, or the Charitable Trusts Act, 1860, are repealed respectively by the first section of each of those Acts (p. 483 and p. 499). The Short Titles Act, 1896, provides that these Acts and the Charitable Trusts Acts, 1862, 1869, and 1887, the Charitable Trusts (Recovery) Act, 1891, and the Charitable Trusts (Places of Religious Worship) Amendment Act, 1894, may be cited by the collective title of the Charitable Trusts Acts, 1853 to 1894.

² Repealed by Statute Law Rev. Act, 1892.

³ By the Board of Education Act, 1899, and Orders in Council made thereunder, all powers (excepting the powers of appointing the official trustees of charitable funds and of making orders for vesting and transferring lands or funds in, to, or from the official trustee of charity lands or the official trustees of charitable funds) conferred on the Charity Commissioners and their officers (except the said official trustees), by (*inter alia*) the Charitable Trusts Acts, 1853 to 1894, or any order or scheme made thereunder, so far as those powers relate to endowments or parts of endowments held or deemed to be

held solely for educational purposes, are transferred to the Board of Education (p. 401), and references to a Charity Commissioner are to be construed as references to a member of the Board of Education.

⁴ Repealed by Charitable Trusts Act, 1887, §6. By §2 of that Act Assistant Commissioners are substituted for Inspectors (see p. 512). Now by the Board of Education (Powers) Order in Council, 1900, Schedule II., for the purposes of the transfer of powers, references to Assistant Charity Commissioners are to be construed as references to inspectors and other officers of the Board of Education (p. 397).

Qualification of Commissioners.

2. The said three commissioners so holding office during good behaviour shall be paid as herein-after mentioned, and two at least of the said paid commissioners for the time being shall be Barristers-at-Law of not less than twelve years standing at the time of their respective appointments, and one of such Barristers shall be the chief commissioner, and shall be so called and distinguished in his appointment.

Officers of the Board.

3. The said commissioners, with the sanction of the *Commissioners of Her Majesty's Treasury*, shall from time to time appoint such clerks and messengers as the said commissioners may think fit, and all persons appointed under this provision shall hold their offices during the pleasure of the said commissioners.

Salaries.

4.¹

¹ This section, which dealt only with salaries, is repealed by Charitable Trusts Act, 1887, §6, and other provisions are substituted. See Endowed Schools Act, 1874, and Charitable Trusts Act, 1887, §2. See pp. 444 and 512.

No paid Commissioner, Secretary, or Inspector to sit in House of Commons.

5. No paid commissioner, secretary, or *inspector* to be appointed under this Act shall be capable of sitting in the House of Commons during the tenure of his office.

Style of Commissioners, who may sit as a Board.

6. The said Commissioners to be appointed under this Act shall be styled 'The Charity Commissioners for England and Wales,' and may have and use a seal for authenticating documents,¹ and such commissioners shall sit from time to time as a board² for carrying this Act into execution; and any two of such commissioners may form a board, and may exercise all or any of the powers conferred on the commissioners or the board by this Act.

¹ See Charitable Trusts Act, 1855, §4, and Charitable Trusts Act, 1887, §3.

² The Board of Education (Powers) Order in Council, 1900, Schedule II., provides, for the purposes of the transfer of powers, that references to the Board of Charity Commissioners shall be construed as references to the Board of Education (p. 397).

Board to frame General Minutes.

7. The said board shall, by general minutes,¹ from time to time prescribe regulations for their proceedings, and the proceedings of their inspectors, and concerning the form and manner of applications² to the said board, and the conditions to be performed by applicants, and for the guidance of applicants

in relation thereto, and all such general minutes shall be signed by three of the said commissioners at the least; and copies of all such general minutes shall be laid before both Houses of Parliament within fourteen days after the making thereof if Parliament be sitting, or if Parliament be not sitting, then within fourteen days after the next meeting thereof.

¹ See Charitable Trusts Act, 1860, §21 (p. 505).

² See Charitable Trusts Act, 1869, §5 (p. 508).

Minutes of Proceedings and Orders, etc., to be entered, and Copies of Entries signed by the Secretary to be received in Evidence.

8. The said board shall cause minutes of their proceedings, and all orders, certificates, and schemes, made or approved by them under this Act, to be entered in books to be provided and kept for such purpose, and all such entries shall be signed by their secretary, and all copies purporting to be extracted from the books of the said board, and to be certified by their secretary, of any such minutes, orders, certificates, and schemes entered as aforesaid, shall be received as evidence of the proceedings to which such minutes shall relate, and of such orders, certificates, or schemes, and of the making or approval thereof (as the case may require) by the said board, without further proof thereof.¹

¹ See Charitable Trusts Act, 1855, §5 (p. 494), and Charitable Trusts Act, 1897, §3 (p. 513).

Board to inquire into Condition and Management of Charities.

9. It shall be lawful for the said board¹ from time to time, as they in their discretion may see fit, to examine and inquire into all or any charities in England or Wales, and the nature and objects, administration, management, and results thereof, and the value, condition, management, and application of the estates, funds, property, and income belonging thereto; and the said board may cause examinations and inquiries in relation to the matters aforesaid to be made and prosecuted by their *inspectors*, acting together or separately, in such cases and at such times as the said board may think fit; and all such *inspectors* shall from time to time report their proceedings to the said board.

¹ These powers are transferred to the Board of Education where the charity is solely educational. See note 3 to §1.

Power to require Accounts and Statements.

10. The said board¹ may require all trustees or persons acting or having any concern in the management or administration of any charity, or the estates, funds, or property thereof, to render to the said board, or to their *inspectors*, or either of them, accounts² and statements in writing in relation to such charity, or the funds, estates, property, income, or moneys thereof, or the administration, management, and application thereof, and may also require such trustees and persons to return answers in writing to any questions or inquiries addressed to them by the direction of the said board relating to the matters aforesaid.³

¹ These powers are transferred to the Board of Education where the charity is solely educational. See note 3 to §1.

² As regards the accounts of parochial charities not being ecclesiastical, see also the Local Government Act, 1894, §14 (6).

³ See §15, *infra*, and Charitable Trusts Act, 1855, §§6, 8, 9 (p. 494), and Charitable Trusts Act, 1860, §§19, 20 (p. 504).

Officers having Custody of Records to furnish Copies and Extracts, if required by Board.

11. All officers having the custody of enrolments, decrees, reports, records, and other documents relating to or concerning any charity shall furnish such copies or extracts as shall be required by the said board; and every *inspector*, secretary, and other officer of the said board for the time being employed for the purposes of this Act shall be at liberty, by the authority and under the directions of the board, and subject to such regulations as the Board may make in that behalf, to examine and search the registers and records of every court of law and equity, and every ecclesiastical court, and every public registry and office of records, and to take copies of and extracts from any decree or document recorded or registered or deposited therein respectively, for any purpose contemplated by this Act, without Fee or other payment in respect thereof.¹

¹ This section was extended to the Endowed Schools Commissioners by §49 of the Endowed Schools Act, 1869, and the powers in so far as they relate to charities which are solely educational are now transferred to the Board of Education. See note to §1.

Inspector may examine Witnesses on Oath.

12. Any *inspector*¹ acting under the authority of the said board may, by precept under his hand, subject to such regulations as the said board may make in that behalf, require any person, being a trustee of any charity or otherwise acting or having any concern in the management or administration of any charity, or of the estates, funds, or property thereof, or in the receipt or payment of the income or moneys thereof, or deriving any income or stipend therefrom, to attend before such *inspector* for the purpose of being examined by him touching or relating to such charity, or the estates, funds, property, or income thereof, at any time and place mentioned or appointed by such precept, and to bring and produce any deed, paper, writing, instrument, or other document, being in the custody, possession, or power of such person, and relating to such charity, or the estates, funds, property, or income thereof, and may examine upon oath all persons attending in pursuance of such precept, and all persons voluntarily attending before him, and may administer such oath: Provided always, that no person shall be obliged to travel in obedience to any such precept more than ten miles from his place of abode.

¹ The powers conferred on inspectors by the Act were extended by Charitable Trusts Act, 1855, §§6 and 7, and transferred to Assistant Commissioners by Charitable Trusts Act, 1887, and may now be exercised by inspectors and other officers of the Board of Education in relation to charities which are solely educational. See pp. 484, 512.

Persons giving false Evidence guilty of a Misdemeanour.

13. If any person wilfully give false evidence upon any examination under this Act, every person so offending shall be deemed guilty of a misdemeanour.

Person refusing to render Accounts, etc., to be deemed guilty of a Contempt of Court.

14. If any person from whom the said board, or any *inspector*, is authorised to require any account or statement or answers to any questions

or inquiries, or whose attendance. any *inspector* is authorised to require, shall refuse or wilfully neglect to render to the said board such account or statement, or to make answers to such questions or inquiries, or to attend in obedience to any lawful precept of any *inspector* or to give evidence before him, or shall wilfully alter, destroy, withhold, or refuse to produce any deed, paper, writing, instrument, or other document which may be lawfully required to be produced before any *inspector* or the said board, every person so offending shall be deemed and taken to have been guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such court on summary application by the commissioners to the same, and shall pay the costs of and attending such contempt as the said court shall direct.¹

¹ See also Charitable Trusts Act, 1855, §9, and Charitable Trusts Act, 1860, §20.

Saving for Persons claiming adversely to Charities.

15. Provided always, That nothing herein contained shall extend to give to the said board or their *inspectors* any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same.¹

¹ See also Charitable Trusts Act, 1855, §6 (p. 494).

Board to entertain Applications for their Opinion or Advice.—Persons acting on Advice of Board to be indemnified.

16. The said board¹ shall receive and consider all applications which may be made to them by any trustee or other person having any concern in the management or administration of any charity, for their opinion, advice, or direction respecting such charity, or the management or administration thereof, or the estates, funds, property, or income thereof, or the application thereof, or any question or dispute relating to the same respectively,² and, if they so think fit, may upon any such application give such opinion or advice as they think expedient, subject to any judicial order or direction which may be subsequently made or given by any competent court or judge; and such opinion or advice shall be in writing, signed by two or more of the said commissioners, and sealed with the seal of the said commission;³ and every trustee and other person who shall act upon or in accordance with the opinion or advice given by the said board shall in respect of so acting be deemed and taken, so far as respects his own responsibility, to have acted in accordance with his trust; and no such judicial order or direction subsequently made or given by any court or judge shall have any such retrospective effect as to interfere with or impair the indemnity by this Act given to trustees and other persons who have acted upon or in accordance with such opinion or advice of the said board: Provided always, that nothing herein contained shall extend to indemnify any trustee or other person for any Act done in accordance with the opinion or Advice of the said board, if such trustee or other person have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion or advice.

¹ The powers given to the board by this section so far as they relate to endowments

which are solely educational are transferred to the Board of Education. *See note to §1, supra.*

² *See also* §64 and Charitable Trusts Act, 1855, §46 (p. 495).

³ *But see* Charitable Trusts Act, 1855, §4 (p. 483).

Notice of Legal Proceedings as to any Charity by any Person, except the Attorney-General, to be given to the Board.—Courts not to entertain Proceedings as to Charities, except upon Certificate of the Board.

17. Before any suit, petition, or other proceeding (not being an application in any suit or matter actually pending) for obtaining any relief, order, or direction concerning or relating to any charity, or the estate, funds, property, or income thereof, shall be commenced, presented, or taken by any person whomsoever, there shall be transmitted by such person to the said board notice¹ in writing of such proposed suit, petition, or proceeding, and such statement, information, and particulars as may be requisite or proper, or may be required from time to time by the said board, for explaining the nature and objects thereof; and the said board, if upon consideration of the circumstances they so think fit, may, by an order or certificate signed by² their secretary, authorise or direct any suit, petition, or other proceeding to be commenced, presented, or taken with respect to such charity, either for the objects and in the manner specified or mentioned in such notice, or for such other objects, and in such manner and form, and subject to such stipulations or provisions for securing the charity against liability to any costs or expenses, and to such other stipulations or provisions for the protection or benefit of the charity, as the said board may think proper;³ and such board, if it seem proper to them, may by such order or certificate as aforesaid require and direct that any proceeding so authorised by them in respect of any charity shall be delayed during such period as shall seem proper to and shall be directed by such board; and every such order or certificate may be in such form and may contain such statements and particulars as such board shall think fit; and (save as herein otherwise provided) no suit, petition, or other proceeding for obtaining any such relief, order, or direction as last aforesaid shall be entertained or proceeded with by the Court of Chancery, or by any court or judge,⁴ except upon and in conformity with an order or certificate of the said board: Provided always, that this enactment shall not extend to or affect any such petition or proceeding in which any person shall claim any property or seek any relief adversely to any charity.⁵

¹ When the proposed legal proceedings relate to an endowment held solely for educational purposes the notice required by this section should be transmitted to the Board of Education, and that Board will have power, by order or certificate signed by their Secretary and sealed with their seal, to authorise or direct the proceedings as proposed, or for such other objects and in such form and subject to such provisions as they may think fit (Board of Education Act, 1899, and Orders, pp. 391-402). This transfer of powers derives additional importance from the provisions of the Education Act, 1902, §7 (1) (d) and (3), since in any case where the provision of additional accommodation in a public elementary school requires any alteration in a scheme the Board of Education will be the authority to decide on appeal whether the alterations or improvements are reasonably required, and will also be the authority to decide whether any and what proceedings shall be taken to allow of a new disposition of the funds in order to carry them out. Thus it has been decided that when an application to the court had for its object the erection of a new schoolhouse it must have the sanction prescribed (*In re Ford's Charity*, 3 Drew, 324) and accordingly in cases where the Board

of Education decides that such an improvement is reasonably required it will also devolve upon that Board to authorise any proceedings thereby rendered necessary, and to insist on such stipulations for securing the charity against liability to any costs or expenses, and such other stipulations or provisions for the protection or benefit of the charity as they may think proper, and also by their order to decide whether the proceedings shall be delayed during any and what period. The fact that the Board of Education under this section are acting as the authority for securing the due administration of the Charitable Trusts attaching to the endowment will justify the trustees or managers in assisting to carry out any decision the Board of Education may arrive at, while the double capacity in which the Board of Education has to act will throw on them the duty and give them the power of co-ordinating the reasonable requirements of the local education authority with due provisions for the protection or benefit of the charity.

The provisions of this section will also be of importance in connection with §13 of the Education Act, 1902, since any claim by the local education authority to any portion of the income of any endowment will be a claim not adverse to the charity, but for the due application of the endowment and will be within this section.

This section does not prohibit trustees from paying money into Court under the Trustee Relief Act, but the effect of so doing is that they cease to be trustees (*In re Poplar and Blackwall Free School*, 8 Ch. D. 543) and the better course will be for them to apply to the Board of Education for advice under §16 or for a scheme. A petition for application of purchase money paid into Court in respect of charity lands under the Lands Clauses Act does not require sanction under this section (*In re Cheshunt College*, 1 Jur. N. S. 995; *In re Lister's Hospital*, 6 De G. M. & G. 184).

² See Charitable Trusts Act, 1855, §4 (p. 483).

³ See also Charitable Trusts Act, 1869, §13 (p. 509).

⁴ These words do not include an action by the governors of a school to restrain a schoolmaster from presenting himself at the school or continuing to occupy the school-house on the ground that he had not been duly appointed, was unfit, and had been removed (*Holme v. Guy*, 5 Ch. D. 901). It is clear that this section was not intended to interfere with the rights or powers of the trustees of a charity in their character of owners of property or as masters who are employing servants, nor to prevent them from bringing ejectment or an action of covenant against a tenant, or proceedings for trespass or by way of distress. Such cases, under the old practice, were to be tried in an action at law to which the Act of Parliament does not apply. The object of the section is to prevent strangers from coming in as relators in suits in Chancery or as petitioners under Romilly's Act, unless the Commissioners are first satisfied that proceedings ought to be taken (*ib.* at p. 910).

⁵ The deed of trust of an endowed school provided that the master should be appointed by the vicars of three separate parishes and should be removable by them for certain specified causes. Two of the vicars served on the master a signed notice of dismissal without holding any meeting or hearing him in his defence. The master brought an action and applied for an interim injunction to restrain the two vicars from removing him without first affording him an opportunity of being heard at a duly constituted meeting, and it was held that he did not require the sanction of the Commissioners before bringing such action, and the injunction was granted. (*Fisher v. Jackson*, 1891, 2 Ch. 84.) In the case of *Rendall v. Blair* (45 Ch. D. 139) the managers of a charity school founded under the School Sites Act, 1841, had purported to dismiss the master under §17 of that Act, and the master brought an action for an injunction to restrain them from so doing on the ground that they had not been properly appointed. It was held by the Court of Appeal (*Bowen and Fry L. J.*, *Cotton L. J. diss.*) that although the action might incidentally involve the consideration of the deed of trust of the charity, it was not such an action as required the consent of the Charity Commissioners: but in a subsequent case of *Rooke v. Dawson* (1895, 1 Ch. 480), when the plaintiff having obtained the highest number of marks in an examination for a scholar-

ship announced by the trustees of an endowment, claimed a declaration that he was entitled to the possession of it, Chitty J. decided that as the plaintiff's alleged individual right involved the partial execution or administration of the charitable trusts, the certificate of the Charity Commissioners was necessary before the action could be proceeded with.

Saving for the Attorney-General acting ex officio.

18. Provided always, That it shall be lawful for Her Majesty's Attorney-General acting *ex officio* to make such applications, and take and prosecute such proceedings, with respect to any charity, in the Court of Chancery or otherwise as to him may seem fit, as if this Act had not been passed;¹ and that nothing in this Act contained shall be construed as dispensing with the fiat or allowance of Her Majesty's Attorney-General, with respect to any proceeding not being an Application under the Jurisdiction created by this Act where such fiat or allowance was necessary before the passing of this Act.

¹ See also §§20 and 43, *infra*.

Board may, upon the Report of an Inspector, authorise Proceedings, where no Notice has been given to them, and may in other Cases cause local Inquiries by their Inspector.

19. Provided also, That where upon any report of any *inspector* under this Act or otherwise it appears to the said board that any suit, petition, or other proceeding concerning or relating to any charity, or the estate, funds, property, or income thereof, would be proper or expedient, it shall be lawful for the said board by their order to authorise or direct such suit, petition, or proceeding to be commenced, presented, or taken, and to give such directions in relation thereto as the said board may think proper; and thereupon such suit, petition, or proceeding may be commenced, presented or taken accordingly, without any such previous notice in writing¹ as hereinbefore mentioned; and the said board before giving any such opinion, advice, or direction upon any such application as aforesaid,² or making any such order or certificate after notice to them as aforesaid, may, where local inquiry appears to them to be requisite, cause such inquiry to be made by one of their *inspectors*; and the said board may, in any case where they see fit, before acting upon the report of any *inspector*, cause such report to be deposited for local inspection and give notice of the same being so deposited, and consider any statements or objections which may be transmitted to them in relation thereto.

¹ See §17.

² See §16.

Power for Board to certify certain Cases to the Attorney-General.

20. In any case in which it shall appear to the said board that the institution of legal proceedings is requisite or desirable with respect to any charity, or the estates, funds, property, or affairs thereof, and that under the circumstances thereof it is desirable that such proceedings shall be instituted by the Attorney-General, it shall be lawful for the said board, if they so think fit, to certify such case, in writing under the hand of the secretary of the said board, to Her Majesty's Attorney-General, together with such statements and particulars (if any), as in the opinion of the said board may be requisite or proper for the explanation of such case; and thereupon the said Attorney-General, if upon consideration of the circumstances he think fit, shall institute

and prosecute such legal proceedings as he shall consider requisite or proper under the circumstances of such case, by information¹ or petition in the Court of Chancery, or by application to a Judge thereof at Chambers, or to a *district court of bankruptcy*, or² county court under the jurisdiction given by this Act.³

¹ Now 'action.' Rules of Supreme Court, 1883, O. 1, r. 1.

² Words in italics repealed by Stat. Law Rev. Act, 1875.

³ See also Charitable Trusts (Recovery) Act, 1891, §3 (p. 516.)

Board may sanction Building Leases, working Mines, doing Repairs and Improvements ; and may authorise the application of the Charity Funds or the raising of Money on Mortgage for those Purposes.

21. If in any case it appear to the trustees or persons for the time being acting in the administration or management of any charity, or the estates or property thereof, that any part of the charity lands or estates may be beneficially let on building, repairing, improving, or other leases, or on leases for working any mine,¹ or that the digging for or raising of stone, clay, gravel, or other minerals, or the cutting of timber, would be for the benefit of the charity, or that it would be for the benefit of such charity that any new road or street should be formed or laid out, or any drains or sewers made through any part of the charity estates, or that any new building should be erected, or that any existing building should be repaired, altered, rebuilt, or wholly removed, or that any other improvements or alterations in the state or condition of the lands or estates of such charity should be made, it shall be lawful for such trustees or persons to lay before the said board a statement and proposal in relation to any of the matters aforesaid ; and it shall be lawful for the said board, if they think that the leases or acts to which the statement and proposal relate (with or without modifications or alterations) would be beneficial to the charity, to make such order under their seal for and in relation to the granting of such leases, or the doing of any other such acts as aforesaid, and any circumstances connected therewith, as they may think fit, although such leases or acts respectively shall not be authorised or permitted by the trust ; and the said board, by any such order, may authorise the application of any moneys or funds belonging to the charity for any of the purposes or acts aforesaid, and, if necessary, may authorise the trustees to raise any sum of money by mortgage of all or any part of the charity estates :² *Provided that compulsory provisions be reserved in every such mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and re-conveyance of the mortgaged estates, within the period of not more than thirty years.*³

¹ See also §26 and Charitable Trusts Amendment Act, 1855, §§16, 29, 38, 39 ; Charitable Trusts Act, 1862, §1 ; and Charitable Trusts Act, 1869, §12.

² See also Charitable Trusts Act, 1860, §15.

³ Words in italics repealed by Charitable Trusts Act, 1855, §30, and other provisions substituted (see p. 490).

Commissioners to authorise Trustees to remove Officers.

22. It shall be lawful for the board, upon proof to their satisfaction that any schoolmaster or schoolmistress or other officer of any charity has been negligent in performing his or her duties, or that he or she is unfit or incompetent to discharge them properly, either from immoral conduct, age, or any other cause whatsoever, to empower the trustees of such charity to remove

such schoolmaster or mistress or other officer, and to charge the salary of his or her successors, or any other portion of the revenues of the charity, with such retiring pension or allowance, if any, in favour of the person so removed, and generally to impose such conditions as to the said board shall appear proper: provided always, that where there shall be any special visitor¹ of the charity, the consent of such visitor, in writing under his hand, shall be necessary in order to such removal.²

¹ As to the jurisdiction of a visitor, see *Whiston v. Dean of Rochester*, 18 L. J. Eq. 473.

² See also Charitable Trusts Act, 1860, §§2, 6, 8, 13, and 14.

Board may sanction Compromise of Claims on Behalf of Charity.

23. If in any case it appear to the trustees or persons acting in the administration of any charity that any claim or demand or cause of suit against any person in relation to such charity may, with advantage to the charity, or should under the special circumstances of the case, be compromised or adjusted without taking or without continuing any proceedings at law or in equity, such trustees or persons may, or the person against whom such claim, demand, or cause of suit, exists or is alleged to exist, may, with the consent of the trustees or persons acting in the administration of such charity, submit to the said board a statement and proposal for such compromise or adjustment; and if it appear to the said board after such inquiry in relation thereto by one of their *inspectors*, as they may deem requisite, or otherwise, that such proposal, either with or without any modification, is fit and proper, and for the benefit of the charity, it shall be lawful for the said board to make such order for and in relation to such compromise or adjustment as they may think fit; and upon the due performance of the terms and conditions of such compromise or adjustment as aforesaid, such agreement shall be a final bar to all actions, suits, claims, and demands by or on behalf of the charity concerned therein, in respect to the cause of action, suit, or matter in respect to which such compromise or adjustment shall have been made.¹

¹ See also Charitable Trusts Amendment Act, 1855, §31 (p. 491).

The power to sanction a compromise given by these sections will be of material assistance in solving the difficult questions which may arise between the local education authority and the trustees of endowments coming within the proviso to §13 of the Education Act, 1902.

Board, under Special Circumstances, may authorise Sale or Exchange of Charity Lands.

24. Upon application to the said board by the trustees or persons acting in the administration of any charity, representing to the said board that, under the special circumstances of any land belonging to the charity, a sale or exchange of such land can be effected on such terms as to increase the income of the charity, or would otherwise be advantageous to the charity, such board may, if they think fit, inquire into such circumstances, and if after inquiry they are satisfied that the proposed sale or exchange will be advantageous to the charity may authorise the sale or exchange, and give such directions in relation thereto, and for securing the due investment of the money arising from any such sale, or by way of equality of exchange for the benefit of the charity as they may think fit.¹

¹ See also Charitable Trusts Amendment Act, 1855, §§29, 32, 34 to 38; Charitable Trusts Act, 1862, §1; and Charitable Trusts Act, 1869, §12.

Board may authorise the Redemption of Rent Charges.

25. The said board shall have authority, upon such application as aforesaid, to authorise the sale to the owners of the land charged therewith of any rentcharge, annuity, or other periodical payment charged upon land and payable to or for the benefit of any charity or applicable to charitable purposes, upon such terms and conditions as they may deem beneficial to the charity, and to give such directions for securing the due investment of the money arising from such sale for the benefit of the charity, or for securing the due application thereof to such charitable purposes, as they may think fit; and in like manner the trustees of any charity, with the consent of the board, may purchase any rentcharge or other yearly payment to which the charity estate is or shall be liable.¹

¹ See also Charitable Trusts Amendment Act, 1855, §§33 and 34.

Leases, Sales, etc. authorised by the Board to be Valid.

26. The leases, sales, exchanges, and other transactions authorised by such board under the powers of this act shall have the like effect and validity as if they had been authorised or directed by the express terms of the trust affecting the charity.¹

¹ See also Charitable Trusts Amendment Act, 1855, §38.

Trustees of Charities enabled to Purchase Sites for Building from Owners under Disability, etc., according to the Provisions of Lands Clauses Consolidation Act, 1845.

27. Where any land shall be required for the erection or construction of any house or building with or without garden, playground, or other appurtenances, for the purposes of any charity, and the trustees of the charity shall be legally authorised to purchase and hold such land,¹ but by reason of the disability of any person having an estate or interest in such land, or of any defect in title thereto, a valid and perfect assurance of the same land cannot be made to the trustees of the charity in the ordinary manner, it shall be lawful for the trustees of the charity, with the sanction of the said board (such sanction to be certified under the hand of their secretary),² to take and purchase such land according to the provisions of 'The Lands Clauses Consolidation Act, 1845'; and for that purpose all the clauses and provisions of the last-mentioned Act with respect to the purchase of lands by agreement, and with respect to the purchase money or compensation coming to parties having limited interests, or prevented from treating, or not making a title, and also with respect to conveyances of lands, so far as the same clauses and provisions respectively are applicable to the cases contemplated by this provision, shall be incorporated in this Act; and in all cases contemplated by this provision, the expression 'the special Act,' used in the said clauses and provisions of the said 'Lands Clauses Consolidation Act' shall be construed to mean this Act; and the expression 'the promoters of the undertaking,' used in the same clauses and provisions, shall be construed to mean the trustees of the charity in question.³

¹ Repealed by Stat. Law Rev. Act, 1875.

² See also Charitable Trusts Amendment Act, 1855, §4.

³ See also Charitable Trusts Amendment Act, 1855, §41.

In Cases of Charities the Incomes of which exceed £30, Master of the Rolls and Vice-Chancellors, upon Applications to them at Chambers, to have the same Jurisdiction as the Court of Chancery or Lord Chancellor now has upon Information, etc.

28.¹ Where the appointment or removal of any trustee, or any other relief, order, or direction relating to any charity of which the gross annual income for the time being exceeds thirty pounds,² shall be considered desirable, and such appointment, removal, or other relief, order, or direction might now be made or given by the Court of Chancery, in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor intrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorised in this behalf by the order or certificate of the said board,³ or for the Attorney-General, to make application (without any information, bill, or petition) to the Master of the Rolls or one of the Vice-Chancellors sitting at Chambers, for such order, direction, or relief as the nature of the case may require;⁴ and the Master of the Rolls or the Vice-Chancellor to whom any such application shall be made shall and may proceed upon and dispose of such application in Chambers, save where he may think fit otherwise to direct, and shall and may have and exercise thereupon all such jurisdiction, power, and authority, and make such orders and give such directions in relation to the matter of such application, as might now be exercised, made, or given by the Court of Chancery or by the Lord Chancellor intrusted as aforesaid, in a suit regularly instituted, or upon petition, as the case may require; and the Master of the Rolls and Vice-Chancellors respectively shall, in relation to such applications as aforesaid, and the proceedings thereon (subject to any rules which may be made by the Lord Chancellor, with the advice and consent of them or any two of them), have all such powers of directing matters to be heard in open court, and of ordering what matters shall be heard and investigated by themselves and their chief clerks respectively, and such other powers and authorities as by the Act of the last Session of Parliament, chapter eighty, are vested in or authorised to be exercised by them at Chambers; and the provisions of the said Act applicable to orders made by the Master of the Rolls or any of the Vice-Chancellors at Chambers shall extend to all orders so made under this Act: Provided always, that, save as may be otherwise provided by any rules to be made by the Lord Chancellor, with such advice and consent as aforesaid, the determinations of the Master of the Rolls and Vice-Chancellors respectively upon and in relation to such applications as aforesaid shall not be subject to appeal in any case where the gross annual income of the charity does not exceed one hundred pounds:¹ Provided also, that it shall be lawful for the Master of the Rolls or any Vice-Chancellor, where under the circumstances of any application as aforesaid he may so see fit, to direct that for obtaining the relief, order, or direction sought for by such application an information, bill, or petition, as the case may require, shall be filed or presented and prosecuted as now by law required, and to abstain from further proceeding on such application.

¹ See also Charitable Trusts Act, 1860, §2.

² But see §§30, 35, 37.

³ See §43.

⁴ This jurisdiction is now exercised by the Judges of the Chancery Division of the High Court of Justice and the proceedings in Chambers are regulated by the Rules of the Supreme Court O.55. Rule 13 provides that any application to a Judge in

Chambers under this section shall be made by summons. A certified copy of the certificate of the Charity Commissioners, or in a case relating to a charity which is solely educational of the Board of Education, must be lodged at Chambers unless the Attorney-General is the applicant.

⁵ This condition is fulfilled when the total income of the charities dealt with by the order exceeds £100, although the income of each charity is below that amount. *In re Charitable Gifts for Prisoners*, L. R. 8, Ch. 199.

Provision as to Charities within the Jurisdiction of the Court of Chancery of the County Palatine of Lancaster.

29. The jurisdiction created and given by this Act to the Master of the Rolls and the Vice-Chancellors sitting in Chambers, upon any applications to them respectively as aforesaid, shall extend concurrently to and may be exercised by the Chancellor of the Duchy and County Palatine of *Lancaster*, and the Vice-Chancellor of the same County Palatine respectively for the time being, as to every charity within the jurisdiction of the Court of Chancery of the said County Palatine whose gross annual income for the time being exceeds thirty pounds, upon application being made to such Chancellor or Vice-Chancellor respectively; and it shall be lawful for the Chancellor of the said Duchy and County Palatine, with the concurrence of the Vice-Chancellor of the same County Palatine, from time to time to make and issue any rules and orders for regulating the modes of proceeding, and the fees to be taken in respect of proceedings under this Act.

Provisions as to Charities exceeding £30 per Annum to extend to Charities in London not exceeding £30.

30. Provided always, That the provisions of this Act applicable to any charity, the gross annual income whereof exceeds thirty pounds shall extend to any charity established or administered or applicable to or for objects or purposes within the City of London the gross annual income whereof does not exceed thirty pounds, in like manner as if such income exceeded that amount.

Lord Chancellor, with the Advice of Master of the Rolls and Vice-Chancellors, or two of them, to make General Orders.

31. It shall be lawful for the Lord Chancellor, with the advice and consent of the Master of the Rolls and Vice-Chancellors, or any two of them, to make and issue general rules and orders for regulating the mode and form of applications at the Chambers of the Master of the Rolls and Vice-Chancellors respectively under this Act, and the proceedings thereon, and for determining in what cases and under what conditions and restrictions the determinations of the Master of the Rolls and Vice-Chancellors respectively upon or in relation to such applications shall be subject to appeal,¹ and the fees and allowances to solicitors of the Court of Chancery, and the fees to be payable in money or by stamps to the officers of the said court in respect of such applications and proceedings thereon; and such rules and orders may from time to time be varied by the like authority, and all such rules and orders shall be deemed general orders of the said court.

¹ The Rules of the Supreme Court, O. 55, r. 14, provide that no order made under this Act by the judge in chambers shall be subject to appeal when the income of the charity has not been declared to exceed £100, unless the judge shall certify that such appeal ought to be permitted.

District Courts of Bankruptcy and County Courts to have Jurisdiction in Cases of Charities the Incomes of which do not exceed £30.

32. Where any charity of which the gross annual income for the time being does not exceed *thirty*¹ pounds shall be established or administered or be applicable wholly or partially to or for objects or purposes within the district or any two or more of the districts of *any district court of bankruptcy*² or of any county court or courts *holden under the Act of the Session holden in the ninth and tenth years of the reign of Her Majesty, chapter ninety-five*, and the appointment or removal of any trustee, or any other relief, order, or direction whatsoever concerning such charity, shall be considered desirable, and such appointment or removal, or other relief, order, or direction, might now be made or given by the Court of Chancery in respect either of its ordinary or its special or statutory jurisdiction, or by the Lord Chancellor intrusted with the care and commitment of the custody of lunatics, it shall be lawful for any person authorised in this behalf by the order or certificate of the said board, or for the Attorney-General, to make application to such *district or county court*, or, as the case may be, to any one of such *district or county courts*, for such order, direction, or relief as the nature of the case may require; and such *district or county court* shall entertain such application, and shall hear the matter in open court, and shall give such relief, and make such orders and directions in relation to the matter of such application, as might now be made or given by the Court of Chancery or by the Lord Chancellor, intrusted as aforesaid, in a suit regularly instituted, or upon petition, as the case may require; and the clerk of such county court shall transmit a copy of such order or direction to the office in London of the registrar of county courts judgments, to be there enrolled: Provided always, that no judge of any *district or county court* shall be authorised to vary any decree, order, or direction of the Court of Chancery, or of any judge thereof, or to make or give any order or direction inconsistent or conflicting with any such decree, order, or direction: Provided also, that where two or more *district or county courts* shall have concurrent jurisdiction with respect to any charity under this Act, no application in respect of such charity shall be made to or entertained by more than one of such *district or county courts* at the same time.³

¹ Now Fifty, see Charitable Trusts Act, 1860, §11, p. 502.

² Repealed by Stat. Law Rev. Act, 1892.

³ The practice and procedure in county courts on applications under the Charitable Trusts Acts is described in the County Courts Annual Practice, vol. II. ch. iv.

*Deputy sitting for County Court Judge not to exercise Jurisdiction.*¹

33. *The jurisdiction hereby created and conferred on the County Courts with respect to any charity shall not be exercised by any deputy or other person who may for the time being be appointed to sit and shall be sitting for any such judge.*²

¹ This section is repealed by Stat. Law Rev. Act, 1875.

² By §18 of the County Courts Act, 1888, a deputy judge now has all the powers of the judge.

Where Two or more Courts have concurrent Jurisdiction, Board to direct to which Court Application shall be made.

34. Where two or more *district courts of bankruptcy or county courts* shall concurrently have jurisdiction under this Act with respect to any charity,

it shall be lawful for the said board to order to which of such courts any application with respect to such charity shall be made; and every such order shall be conclusive as to the jurisdiction with respect to the application referred to in such order.

Board may direct Cases within the Jurisdiction of a District or County Court to be taken before a Judge of the Court of Chancery in the first instance.

35. It shall be lawful for the said board to direct that any application as to any charity within the jurisdiction of any *district court of bankruptcy* or county court shall be made before a judge of the Court of Chancery, or as to any charity within the jurisdiction of the Court of Chancery of the County Palatine of Lancaster, either before the Chancellor or the Vice-Chancellor of the same County Palatine, or before a judge of the High Court of Chancery, according to the provisions herein contained applicable to a charity the gross annual income whereof exceeds thirty pounds,¹ and in such case such application shall be made and may be heard and determined accordingly, in like manner as if the gross annual income of such charity exceeded thirty pounds, and upon the production of the order or certificate containing such direction, or of a copy thereof, the application with respect to which such order or certificate shall have been made shall not be entertained or proceeded with by such *district* or county court.

¹ See §28 above.

No Order of District or County Court for the Appointment or Removal of Trustees or Approval of a Scheme to be valid unless confirmed by Board.

36. Whenever any order or decision is made by any *district court of bankruptcy* or county court for the appointment or removal of any trustee of any charity, or approving of any scheme for regulating or directing the administration of any charity, or the estate, funds, property, or income thereof, a copy of every such order or decision shall immediately upon the making thereof be delivered or transmitted *by the deputy registrar of such district court* or by the clerk¹ of the county court, *as the case may be*, together with all requisite particulars, to the said board, for the purpose of being considered by them; and no such order or decision shall be valid or effectual until the same shall have been approved by the said board, such approval to be testified by a certificate in writing, signed by the secretary of the said board, and no such approval shall issue from the said board until one calendar month shall have elapsed after the receipt by the board of such copy and particulars.²

¹ Now the 'Registrar.'

² See now Charitable Trusts Amendment Act, 1855, §4.

Board, if dissatisfied with the Order of District or County Court, may remit the Case for Reconsideration, or may transfer the Matter to a Judge of the Court of Chancery.

37. In case any such order or decision as last aforesaid of any *district court of bankruptcy* or county court shall not be approved by the said board, it shall be lawful for such board to remit the same for reconsideration and decision by such *district* or county court, with such remarks and recommendations thereon (if any), as shall seem fit and expedient to such board, or,

in the discretion of the board, to order and direct that the subject matter to which such order or decision relates, together with such order or decision, shall be submitted to the consideration and decision of a judge of the Court of Chancery, and in such last-mentioned case no further proceeding shall be had or taken in the *district or county court* with respect to the matter in question; and in case the order or decision of the *district or county court*, on the reconsideration of any order or decision so remitted for reconsideration, be disapproved as aforesaid by the said board, such board shall refer such orders and decisions, and the subject matter thereof, to a judge of the Court of Chancery, or, as to any charity within the jurisdiction of the Court of Chancery of the County Palatine of *Lancaster*, either to the Chancellor or the Vice-Chancellor of the same County Palatine, or to a judge of the High Court of Chancery; and where any order or decision is referred to a judge of the Court of Chancery, or of the Court of Chancery of the said County Palatine of *Lancaster*, under this provision, such judge shall have and exercise all such jurisdiction, power, and authority in relation thereto as in the case of a charity the gross annual income whereof exceeds thirty pounds,¹ and may make such order in relation to the matter of such order or decision as to him may seem proper.

¹ See §28, *supra*.

How Orders of District or County Court under this Act to be enforced.

38. Subject to any orders to be made by the Lord Chancellor as hereinafter mentioned, and to the other provisions of this Act, all proceedings to be taken in any *district court of bankruptcy or county court*, and all orders and directions to be made or given by any such *district court or county court* by virtue of the jurisdiction hereby created and conferred on such court, shall respectively be subject to the same rules and regulations, and have the same effect and be registered, enforced, and executed in the same manner, as the other proceedings, orders, judgments, and directions of the same court under its ordinary jurisdiction, and it shall be lawful for any such *district court, or for any county court*, with the consent of the board, to rescind or vary any order which shall have been previously made by such court, without prejudice to any Act or matter in the meantime done under such order; and for executing and putting in force any order to be made by any county court under this Act, every judge of any such court shall and may have and exercise all such powers as by the Act of the Session holden in the ninth and tenth years of Her Majesty, chapter ninety-five,¹ are given for enforcing the payment of any debt, damages, or costs under the said Act.

¹ See now County Courts Act, 1888, §188 (3).

Appeal.

39. Where any person authorised to make any application under this Act,¹ (other than Her Majesty's Attorney-General acting *ex officio*,) or any other person who may have been made a party to any proceeding upon any application under this Act, is aggrieved by or dissatisfied with any order made by any *district court of bankruptcy or county court* upon any such application, or any proceeding thereon, he may, within one calendar month after the making of such order, give notice in writing to the said Court, and also to the said board, that he is desirous to appeal against the same; and if the said board think it reasonable and proper that such appeal should be entertained,

and give a certificate to that effect, such *district or county court* shall suspend any proceedings upon the order appealed against during such time as the circumstances may require; and the said board, if they so think fit, may require the person giving any such notice of appeal to become bound, with two sufficient sureties, to be approved by the *deputy registrar of such district court*, or by the clerk of the county court, *as the case may be*, to the treasurers of the said courts respectively, or such other person as the said board may see fit, in such sum as to the said board shall seem reasonable, to pay such costs of the proceedings on the appeal as shall be ordered to be paid by such appellant, and also (if the said board so think fit) to indemnify the charity against the costs and expenses of or attending such appeal; and every bond executed under this provision shall be exempt from stamp duty: Provided always, that it shall be lawful for Her Majesty's Attorney-General (acting *ex officio*), at any time within three calendar months after the making of any order by a *district court or county court* under this Act, to lodge and commence and prosecute an appeal against such order, without giving any such notice or becoming bound as aforesaid, and every such last-mentioned appeal shall thereupon be allowed by the order of such *district or county court*, and shall have such other effect as any other appeal under this Act.

¹ See §43, *infra*.

Proceedings on Appeal.—Bond to Prosecute Appeal may be put in Suit.

40. Where any order allowing an appeal has been made as aforesaid, the person thereby allowed to appeal shall within three calendar months present a petition to the Court of Chancery, setting forth the order appealed against, and the order allowing such appeal and praying such relief as the case may require; and upon the hearing of such petition the court may confirm, vary, or reverse the order appealed against, or may remit such order to the *district court of bankruptcy or county court* by which the same was made, with or without any declaration or directions of the Court of Chancery in relation thereto, or may proceed in relation to the charity to which such order relates as in the case of an application under this Act to a judge of the court of Chancery at Chambers, and any judge of such court sitting at Chambers or in open court may make or give any such orders or directions in relation to the matter of such order as he may see fit, or the court may make such other order in relation to the matter of any such appeal as to the court may seem just, and as might be made in the case of a suit regularly instituted, or a petition, as the case may require; and in case the party allowed to appeal do not within such three calendar months present such petition of appeal, the order against which such appeal was allowed shall be final; and in case any costs adjudged on any such appeal to be paid by the party allowed to appeal be not paid, such bond as aforesaid may be put in suit, and the money to be recovered on every such bond shall be applied to indemnify the charity estate or the person damnified, or otherwise in such manner as the justice of the case may require, and the court or judge by whom such appeal may have been heard shall think fit.

No Chancery Judge, or District or County Court, in Proceedings under this Act to try Titles, etc.

41. Provided always, That no judge of the Court of Chancery nor any *district court of bankruptcy or county court*, shall upon any proceedings

under this Act¹ have jurisdiction to try or determine the title at law or in equity to any real or personal property, or any term or interest therein, as between any charity, or the trustee thereof, and any person holding or claiming such real or personal property, term, or interest adversely to such charity, or to try or determine any question as to the existence or extent of any charge or trust.

¹ See §§28, 29, and 32 of this Act.

Notice to be published of Application for Schemes or Appointment or Removal of Trustees under this Act.

42. Before any application shall be made to any judge of the Court of Chancery, or to any *district court of bankruptcy* or county court, under any of the provisions herein contained for the establishment or alteration of a scheme or the appointment or removal of any trustees or trustee,¹ notice in writing of such intended application shall be given in such form and manner as the said board shall have directed; and if the order be that such notice be affixed to or near the door of any parish or district church, the incumbent and churchwardens of such parish or district are hereby respectively required to allow such notice to be affixed and to remain so affixed during such period, not less than fifteen days, as the said board shall have ordered; and in any case in which the order shall be that such notice shall be affixed to any place, evidence that the same has been so affixed shall be deemed and taken as *prima facie* evidence that it has remained affixed during the period prescribed by the board.

¹ See §§28, 29, and 32 of this Act.

By whom Applications may be made. Attorney-General may petition under 52 G. 3 c. 101.

43. Every application to any judge or court under the jurisdiction created or conferred by any of the provisions of this Act,¹ may be made by Her Majesty's Attorney-General, or, subject to the provisions aforesaid, by all or any one or more of the trustees or persons administering or claiming to administer, or interested in, the charity which shall be the subject of such application, or any two or more inhabitants of any parish or place within which the charity is administered or applicable; and it shall be lawful for Her Majesty's Attorney-General for the time being, acting *ex officio*, to make application by petition to the Court of Chancery with respect to any charity under the provisions of the Act passed in the Fifty-second Year of King George the Third, chapter one hundred and one, or under the provisions of any Act or Acts passed or to be passed authorising the application to the same court by petition according to the provisions of the said Act.

¹ See §§28, 29, and 32.

Statement in Certificate of Board of the Amount of Income of any Charity to be Sufficient Evidence for Determining the Jurisdiction or Proceedings under this Act. Proviso as to Particular Endowments.

44. For the purposes of determining the jurisdiction under this Act with respect to any charity,¹ or the right to appeal from the determination of a judge of the Court of Chancery, it shall be lawful for the said board to declare, according to such judgment as they may be able to form upon the returns or

statements before them in relation to any charity, whether the gross annual income for the time being of such charity does or does not exceed thirty pounds or one hundred pounds (as the case may require,) and a statement in any certificate or order of the said board that according to such judgment as aforesaid the gross yearly income of any charity does or does not exceed thirty pounds or one hundred pounds shall be sufficient evidence of the amount of the gross annual income of such charity, for the purpose of determining such jurisdiction or right to appeal as aforesaid; and any certificate or order made by the said board under this Act, authorising any proceeding or application concerning any charity to be taken or made to any *district court of bankruptcy* or county court or to the Court of Chancery or any judge thereof, shall state that the gross annual income for the time being of such charity does not exceed thirty pounds, or does exceed thirty pounds² (as the case may be): Provided always, that where any charity, or the trustees thereof, in addition to the principal endowment for its general objects and purposes, shall be possessed of or entitled to any other endowment for any particular or special object or purpose arising out of or in its nature or application connected with the general objects or purposes of such charity, it shall be lawful for the said board, having regard to the circumstances of each such case, and to the object and extent of the proposed application and litigation, to determine whether such endowment for such particular or special object or purpose should, for the purposes of jurisdiction and proceedings under this Act, be considered and treated as forming part of the general endowment of the charity, or as a separate or independent charity, and such board shall frame their certificate or order accordingly.

¹ See §§28 and 32.

² See now Charitable Trusts Act, 1860, §11.

Lord Chancellor to make Orders for Regulating Proceedings before District and County Courts. Judges to Regulate Proceedings.

45. The Lord Chancellor shall make such orders for regulating proceedings by and before the judges of *district courts of bankruptcy* and county courts under this Act, and for fixing and determining the fees to be taken in respect of such proceedings, as he may see fit; and, subject to such orders, such judges may regulate the proceedings before them respectively so as to render them as summary and inexpensive as conveniently may be.¹

¹ See County Court Rules, 1889, O. 48. These rules are contained in the Annual County Court Practise, and O. 48, which relates to Charitable Trusts, is set out in vol. ii., App. D. By rule 14, where the income of the charity does not exceed £10, no court fees are payable out of the fund, nor by the parties, unless the judge orders that they shall be so paid.

Reservation of Rights and Privileges of Church of England with respect to Charities.

46. Nothing herein contained shall diminish or detract from any right or privilege which by any rule or practice of the Court of Chancery, or by the construction of law, now subsists for the preference or the exclusive or special benefit of the Church of England, or the members of the same Church, in settling any scheme for the regulation of any charity, or in the appointment or removal of trustees, or generally in the application or management of any charity.¹

¹ See also Charitable Trusts Act, 1860, §4.

Secretary to be Treasurer of Charities ; such Treasurer to be a Corporation.

47. The secretary for the time being of the said board shall by virtue of his appointment be *the treasurer of public charities*,¹ and such treasurer shall, for the purposes of taking, holding, conveying, assigning, transferring, and transmitting real property, including leaseholds for lives or years, be a corporation sole by the name of '*The Treasurer of Public Charities*,' and by that name shall have perpetual succession, and plead and be impleaded, before all courts, justices, and others.

¹ Now the official trustee of charity lands. Charitable Trusts Amendment Act, 1855, §15, p. 486.

Land holden upon Trust for a Charity subject to Jurisdiction of Court of Chancery and of Judge may be vested in Treasurer. Proviso.

48. Where any land, or any term or estate therein, holden upon trust for any charity, shall be vested in any persons other than the persons acting in the administration and application of the rents ; or where there shall be no trustees thereof, or the trustees, or any of them, shall be unwilling to act, or it shall be uncertain in whom such land, term or estate, shall be vested, or all or any of the persons in whom such land, term or estate, shall be vested cannot be found, or shall be under age, lunatic, or of unsound mind, (whether found such by inquisition or not,) or otherwise incapable of acting, or shall be out of the jurisdiction or not amenable to the process of the Court of Chancery, or where by reason of the reduced number of trustees or other causes a valid appointment of new trustees cannot be made, or where by reason of the expenses incident to the appointment of new trustees, and the conveyance or assignment of such land, term or estate, to such new trustees, it shall appear to the Court of Chancery, or to any judge of such court or of any court having jurisdiction with respect to such charity under this Act,¹ desirable so to do, such court or judge may order that such land, term or estate, be vested in such *treasurer*, and thereupon the same shall vest in such *treasurer* and his successors for all the estate and interest holden in trust for the charity as aforesaid, without any conveyance or assurance thereof ; but no such vesting order as aforesaid shall be made in respect of any land, or term or estate as aforesaid, holden in trust as aforesaid, vested in a corporation,² without the consent of the corporation ; and no such vesting order shall take effect in respect of any copyhold land without the consent of the lord of the manor ; and the Court of Chancery, or such judge, may direct such periodical or other payment, as such court or judge may think fit, to be made to the lord of the manor, in compensation for fines or other profits which would have become due upon death or admittance of tenants.

¹ See §§28, 29, and 32, and Charitable Trusts Act, 1860, §2.

² As to land vested in a Parish Council, see Local Government Act, 1894, §52 (4).

Orders may be made re-investing land, etc. in the Trustees of the Charity.

49. It shall be lawful for any court or judge by whom respectively any such vesting order may have been made, or for any other court or judge having jurisdiction in the matter, if it shall so seem fit to such court or judge, from time to time to order that all or any part of the land, term or estate, which shall for the time being be vested in the said *treasurer*¹ by virtue of any such vesting order as aforesaid, shall be divested, and that the same shall be vested

in the acting trustees or trustee for the time being of the charity; and such last-mentioned order shall operate to vest such land, term and estate, in the trustees or trustee therein named without any conveyance or assurance.

¹ Now the official trustee of charity lands. See p. 486.

Treasurer to be a Bare Trustee.

50. Subject to the orders and directions of the Court of Chancery or of any such judge, such *treasurer* shall be deemed a bare trustee, and shall permit the persons acting in the administration of the charity to have the possession, management and control of the trust estates, and the application of the income thereof, as if the same had been vested in them.

Judge may order Trustees, etc. holding Stock, etc. belonging to a Charity subject to his Jurisdiction to transfer same to official Trustees.

51. *The secretary for the time being of the said board, and such other public officer or officers as the Lord Chancellor shall appoint, shall be official trustees of charitable funds, and*¹ where trustees or other persons having in their names or in the name of any deceased person of whom they are representatives, in the books of the Bank of England, or of the East India, or South Sea Company, or of any other public company, any annuities, stock, or shares, or holding any government or Parliamentary or other securities in trust for any charity, shall be desirous to transfer or deposit the same to or with the said official trustees in trust for such charity, or where any persons shall be desirous of transferring or depositing as aforesaid any annuities, stocks, shares, or securities for discharging any legacy or charge given or made to or for the benefit of any charity, or where it shall appear to the Court of Chancery, or to any judge of such court, or of any *district court of bankruptcy*, or county court having jurisdiction under this Act, that any annuities, stock, shares, or securities held in trust for any charity ought, for the purpose of security or convenient administration, to be transferred or deposited as aforesaid, it shall be lawful for such court or judge to order the transfer or deposit of such annuities, stock, shares, or securities to or with such official trustees.²

¹ Repealed by Charitable Trusts Act, 1887, §6, other provisions substituted by §4.

² See also Charitable Trusts Amendment Act, 1855, §§12, 17, 18, 22; Charitable Trusts Act, 1860, §§2 and 12.

Secretary to keep separate Accounts of Funds of each Charity.

52. *The secretary of the said board shall keep separate accounts of the annuities, stock, shares, and securities belonging to each separate charity, and*¹ the said official trustees shall pay the dividends or interest or income thereof to the trustees or persons acting in the administration of such charity, or otherwise dispose thereof, and transfer such annuities, stock, shares, or securities (when occasion shall require), as the Court of Chancery, or any judge of such court, or of any *district court of bankruptcy*, or county court having jurisdiction under this Act,¹ or other lawful authority,² shall direct.

¹ See §§28, 32.

² See Charitable Trusts Amendment Act, 1855, §37, and Charitable Trusts Act, 1860, §2.

Trustees may deposit Deeds, etc., for Security in a Repository provided by the Board.

53. It shall be lawful for any trustees or other persons having the custody of any deeds or muniments of or relating to such charity to deposit the same for security in a repository which may be provided by the said board, subject to any regulations to be made by the said board under this Act.¹

¹ See also Charitable Trusts Amendment Act, 1855, §42, and Charitable Trusts Act, 1860, §19.

Power to Board to frame Schemes for the Appropriation of Charitable Property to varied Trusts.

54. Where upon the application of any trustees or other persons concerned in the management or administration of any charity, or interested in the benefits thereof (and after such examination or inquiry as the board may think necessary in relation thereto), or upon any report of an *inspector*, or information otherwise obtained by the said board under this Act, with relation to any charity, it shall appear to the said board to be desirable to have a new scheme for the application or management of the charity, and such new scheme as contemplated or considered desirable by the board cannot be, or it shall in the opinion of the board be doubtful whether it can be, carried into complete effect by the Court of Chancery, or by any *district or county court* under the jurisdiction created by this Act, or otherwise than by the authority of Parliament, it shall be lawful for the said board in every such case provisionally to approve and certify such new scheme in the manner and subject to the regulations hereinafter mentioned.

Notice to be given before Approval of Schemes, and Objections may be submitted for the Consideration of the Board.

55. One month at least before any such new scheme shall be so provisionally approved, notice thereof shall be given in such manner as the Board may in each case consider proper or expedient for ensuring due publicity, and every such notice shall contain such particulars of the proposed scheme as the said board think fit, and as shall be deemed by the said board sufficient to show the nature of such scheme, and where the nature thereof cannot conveniently be shown in the said notice, such notice shall refer to some convenient place within the parish or district, and to *the office in London of the registrar of county courts judgments*,¹ where a copy of the proposed scheme shall be deposited and may be inspected, and every such notice shall require any objections to such scheme to be stated or transmitted to the said board or their secretary within one month from the time when the notice shall have been given.

¹ Now the office of the board, Charitable Trusts Amendment Act, 1855, §43, p. 493.

Board may alter or modify or approve of Schemes.

56. If after such notice as aforesaid any objections or suggestions shall be made, the board shall consider the same, and may thereupon, if to them it shall seem fit, alter or modify the scheme according to any such objections or suggestions; and after all such objections and suggestions, if any, have been disposed of, or if no such objections or suggestions shall have been

made, the board, in case they shall not think fit to refer such scheme to an *inspector* under the provision next herein-after contained, may proceed to approve such scheme, and to certify the same in manner hereinafter mentioned.

The Matter of Schemes may be referred to an Inspector for local Inquiry.

57. Upon the requisition of any person interested in the charity in question (in case the said board after due consideration shall be of opinion that there are sufficient grounds for complying with such requisition), or in any other case, if the said board shall consider it desirable, the matter of any scheme in question may be referred by the said board to one of their *inspectors*,¹ and such *inspector* shall thereupon proceed to make a local inquiry and examination into the matter of the scheme in question, and for the purposes of such inquiry such *inspector* may hold a sitting or sittings in some convenient place in the parish or one of the parishes or the district to or in which respectively the charity in question is wholly or partially situated or is administered, and may take and receive any evidence and information, and hear and inquire into any objections or questions relating to the scheme or charity in question, and may from time to time adjourn any such sitting, and public notice shall be given by such *inspector* of every such sitting (except an adjourned sitting) fourteen days at the least before the holding thereof, in such other mode as in the judgment of the said board shall be sufficient to ensure publicity.

¹ Now Assistant Commissioners (Charitable Trusts Act, 1887, §2 (3)), or in relation to charities solely educational, inspectors or other officers of the Board of Education. See pp. 298 and 512.

Inspectors to report the Result of Inquiry to the Board.

58. Every *inspector* to whom any such matter shall be referred shall report in writing to the said board the result of his inquiry, and whether in his opinion the scheme in question should be approved with or without any alteration or modification thereof, and such report shall specify or indicate the alterations (if any), which such *inspector* shall consider desirable, with the reasons for the same, and also the nature of the objections (if any), which shall have been made to the scheme, and the opinion of the said *inspector* thereon, and the said board shall consider such report, and if, as the result of such report or after further inquiry, they shall be satisfied therewith, they may proceed to approve the scheme in question either with or without any alteration, and to certify the same in manner hereinafter mentioned.

Schemes when approved to be certified by the Board.—Copy of such Certificates to be deposited in the Parish or District and Notice given.

59. Every scheme to be approved by the said board shall be certified by them, and for that purpose shall be embodied in a certificate to be made by the said board, and sealed with their seal;¹ and in every case a copy of such certificate shall be deposited in some convenient place within the parish or one of the parishes or the district in which the charity in question shall wholly or partially be situated or administered, and at the office in London of the registrar of county courts judgments,² and a notice shall also be given, in such manner as the board shall direct, which notice shall refer to the certificate so deposited,

and shall state the intention of the board to proceed with the scheme thereby certified.

¹ See Charitable Trusts Amendment Act, 1855, §4.

² Now the office of the board. See p. 493.

Annual Report to be laid before Parliament, which shall set forth all the Schemes approved.

60. The said board shall in the month of February in every year make a report¹ to Her Majesty of all their proceedings during the preceding year up to the thirty-first day of December then last, and such report shall, within fourteen days after the making thereof, be laid before both Houses of Parliament, if Parliament be then sitting, or otherwise within fourteen days after the meeting thereof; and in such report the said board shall specially distinguish and set forth in full all the schemes (if any) approved by them under the provisions lastly hereinbefore contained,² together with the grounds of such their approval, and the objections (if any), which have been made thereto, and all proceedings had in respect of such objections and the grounds on which any such objections have been overruled; and in case it shall be enacted by any Act of Parliament that any such scheme or schemes so certified shall be confirmed and take effect, either with or without any alterations or modifications thereof respectively, every such Act shall be deemed a public general Act.³

¹ As regards educational endowments this report is now made by the Board of Education.

² i.e. under §§54 and 55, *supra*.

³ See also Charitable Trusts Act, 1860, §18.

Accounts of Trustees of Charities to be delivered to the Clerks of County Courts, Clerks of the Peace, and to the Board.

61. The trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity.¹

¹ The remainder of this section is repealed by Charitable Trusts Amendment Act, 1855, §44, p. 493, and other provisions dealing with the delivery of accounts are substituted by that section and §45.

Exemptions from the Operation of Act.—Provisions as to Charities supported partly by voluntary Subscriptions.

62. This Act shall not extend to the Universities of Oxford, Cambridge, London, or Durham, or any college or hall in the said Universities of Oxford, Cambridge, and Durham, or to any cathedral or collegiate church, or to any building registered as a place of meeting for religious worship with the registrar general of births, deaths, or marriages in England and Wales, and bonâ fide used as a place of meeting for religious worship; ¹ nor shall this Act, for the period of two years from the passing thereof, extend or be in any manner applied to charities or institutions, the funds or income of which are applicable exclusively for the benefit of persons of the Roman Catholic persuasion,² and which are under the superintendence or control of persons of that persuasion, nor shall this Act extend or be applied to the commissioners of Queen Anne's Bounty, or to the British Museum, or to any friendly or benefit society, or savings bank, or any institution, establishment, or society for religious or other

charitable purposes, or to the auxiliary or branch associations connected therewith, wholly maintained by voluntary contributions,³ or any bookselling or publishing business carried on by or under the direction of any society wholly or partially exempted from this Act, so far as such business is or shall be carried on by means of voluntary contributions only, or the capital or stock of such business; and where any charity is maintained partly by voluntary subscriptions and partly by income arising from any endowment, the powers and provisions of the Act shall, with respect to such charity, extend and apply to the income from endowment only, to the exclusion of voluntary subscriptions, and the application thereof; and no donation or bequest unto or in trust for any such charity as last aforesaid, of which no special application or appropriation shall be directed or declared by the donor or testator, and which may legally be applied by the governing or managing body of such charity as income in aid of the voluntary subscriptions, shall be subject to the jurisdiction or control of the said board, or the powers or provisions of this Act;⁴ and no portion of any such donation or bequest as last aforesaid, or of any voluntary subscription, which is now or shall or may from time to time be set apart or appropriated and invested by the governing or managing body of the charity, for the purpose of being held and applied or expended for or to some defined and specific object or purpose connected with such charity, in pursuance of any rule or resolution made or adopted by the governing or managing body of such charity, or of any donation or bequest in aid of any fund so set apart or appropriated for any such object or purpose as aforesaid, shall be subject to the jurisdiction or control of the said board or the powers or provisions of this Act; and nothing in this Act shall subject the funds or property of any missionary or other similar society, or the missionaries, teachers, or officers of such society, or of any branch thereof, which funds or property shall not be within the limits of England or Wales, to the jurisdiction of the said board: Provided always, that the said exemption shall not extend to any cathedral, collegiate, chapter, or other schools.⁵

¹ See also Charitable Trusts Act, 1869, §15, and Charitable Trusts (Places of Religious Worship) Amendment Act, 1894, §4.

² Repealed by Stat. Law Rev. Act, 1875.

³ In *Pease v. Pattinson*, 32 Ch. D. 154, the Hartley Colliery Fund, which had been raised by voluntary subscriptions and vested in trustees for the relief of sufferers by a colliery accident and their families, was held to be a charity, but to be within this exemption, and probably a fund raised by voluntary subscriptions for the purpose of improving a parish church would also be exempt (*Strickland v. Weldon*, 28 Ch. D. 426) and semble the same rule would apply in the case of a fund raised by voluntary subscriptions for building or improving a school.

⁴ The meaning of this exemption is that a donation or bequest for the general purposes of the charity is on the same footing as voluntary contributions, and is not to be treated as an 'endowment' the income of which is excepted from the preceding exemption (*Corp. of Sons of Clergy v. Skinner*, 1893, 1 Ch. 178).

⁵ See also Charitable Trusts Act, 1855, §49, p. 495, and Charitable Trusts (Places of Religious Worship) Amendment Act, 1894, §4. This proviso does not extend to all 'other schools,' but only to the schools mentioned and to others of a similar character. In the case of *In re Stockport Industrial Schools*, it appeared that an industrial school was maintained by voluntary contributions and grants from the Government and other public authorities, and possessed the land and buildings of the school. Held that there was a permanent endowment and the charity was not within the exemption at the end of this section, and that the consent of the Commissioners was required under §17 *supra*, on the ground that such a charity is not maintained partly by volun-

tary subscriptions and 'partly by income arising from an endowment,' but per Chitty, L. J.: 'the Legislature did not intend that any charity that was maintained by 'voluntary contributions should, so far as it was so maintained, be within the jurisdiction of the Commissioners' (1898, 2 Ch. 687).

Exempted Charities may petition Commissioners to have Benefit of Act.

63.¹

¹ This section is repealed by Charitable Trusts Act, 1869, §17, p. 511, and other provisions are substituted by §14 of that Act.

Disputes among Members of exempted Charities may be referred to Arbitration of Commissioners.

64. Provided also, that if any question or dispute shall arise among the members of any charity *exempted from the operation of this Act*¹ in relation to any office, or the fitness or disqualification of any trustee or officer, or his election or removal, or generally in relation to the management of the charity, it shall be lawful for two-thirds of the members present at any special meeting, duly convened by notice for the purpose in the same manner in which meetings of such charity are by the rules thereof appointed to be held and convened, to refer such question or dispute to the arbitration of the commissioners, who shall accept such reference and act therein as arbitrators, and their award shall be final, and may be made a rule of Her Majesty's High Court of Chancery.

¹ The benefit of this section was extended to non-exempted charities by Charitable Trusts Act, 1855, §46, p. 495. The words in italics were repealed by Stat. Law Rev. Act, 1875.

Legal Estate of Lands now vested in Municipal Corporations on Charitable Trusts to be vested in Trustees.

65.¹

¹ The whole of this section was repealed by the Municipal Corporations Act, 1882, §5, and other provisions were substituted by §133 of that Act. That section is as follows:—

'Administration of Charitable Trusts and vesting of legal estate.'

133. (1.) Where at the passing of the Municipal Corporations Act, 1835, the body corporate of a borough or any one or more of the members thereof in his or their corporate capacity stood solely or together with any person or persons elected solely by that body corporate or solely by any particular number, class, or description of members thereof seised or possessed for any estate or interest of land, in whole or in part, in trust or for the benefit of any charitable uses or trusts, and the legal estate in that land was at the passing of the Municipal Corporations Act, 1835, vested in the body corporate, or person or persons so seised or possessed thereof, and was by the Charitable Trusts Act, 1853, vested in the trustees appointed by the Lord Chancellor under the Municipal Corporations Act, 1835, or such of them as should be surviving and continuing trustees under that appointment according to the respective estates and interests therein and subject to such and the same charges and incumbrances and on such and the same trusts as the same were subject to before such vesting, then, in every case, on the death, resignation, or removal of any trustee and on any appointment of a new trustee the legal estate in that land and in all other lands subject to any such charitable use or trusts for the time being vested in the trustees of any of them or in any persons or the heirs or devisees of any person deceased, resigned, or removed, shall vest in the persons who after such death, resignation, or removal, and such appointment of a new trustee continue or are the trustees for the time being without any conveyance or assurance.

(2.) Nothing in this section shall take away, abridge, or prejudicially affect any power, authority, or jurisdiction of the Charity Commissioners for England and Wales.

Interpretation of Terms.

66. In the construction of this Act, except where the context or other provisions of the Act may require a different construction, *the expression 'Court of Chancery' shall mean and include the Master of the Rolls and every Judge of the Court of Chancery in England;*¹ *the expression 'Lord Chancellor' shall mean and include the Lord Chancellor of Great Britain and the Lord Keeper and Commissioners of the Great Seal of Great Britain for the time being;* *the expressions 'District Court of Bankruptcy' and 'District Court' shall mean and include every district court of bankruptcy established or to be established under the Act of the fifth and sixth years of the reign of Her present Majesty, chapter twenty-two, or under any other Act or Acts passed or to be passed for the alteration or amendment or the extension of the same Act, or for the establishment of any district court or courts of bankruptcy in England or Wales, and every commissioner or judge of every such district court;*² *the expression 'County Court' shall mean and include every county court holden or established or to be holden or established under the Act of the ninth and tenth years of Her Majesty, chapter ninety-five, or any Act or Acts passed or to be passed for the alteration or extension of the same Act, and every judge of any such court;*¹ *the expression 'charity' shall mean every endowed foundation and institution taking or to take effect in England or Wales, and coming within the meaning, purview, or interpretation of the statute of the forty-third year of Queen Elizabeth, chapter four,*³ *or as to which, or the administration of the revenues or property whereof, the Court of Chancery has or may exercise jurisdiction;* *the expression 'trustee' of any charity shall mean and include every person and corporation seised or possessed of or entitled to any real or personal estate, or any interest therein, in trust for or for the benefit of such charity, or all or any of the objects or purposes thereof, and every member of any such corporation;* *and the expression 'the board' shall mean the said Charity Commissioners sitting as a board under this Act;* *and the expression 'endowment' shall mean and include all lands and real estate whatsoever, of any tenure, and any charge thereon, or interest therein, and all stocks, funds, moneys, securities, investments, and personal estate whatsoever, which shall for the time being belong to or be held in trust for any charity, or for all or any of the objects or purposes thereof;* *and the expression 'land' shall extend to and include manors, messuages, buildings, tenements, and hereditaments, corporeal and incorporeal, of every tenure and description.*⁴

¹ Repealed by Stat. Law Rev. Act, 1892.

² Repealed by Stat. Law Rev. Act, 1875.

³ See p. 531.

⁴ Repealed by Stat. Law Rev. Act, 1892: definition now supplied by the Interpretation Act, 1889, §3, which enacts that in every Act passed after 1850, the following expression shall, unless the contrary intention appears, have the meaning hereby assigned to it: . . . 'the expression "land" shall include messuages, tenements, and 'hereditaments, houses, and buildings, of any tenure.'

Extent of Act.

67. This Act shall not extend to Scotland or Ireland.

Short Title.

68. This Act may be cited as 'The Charitable Trusts Act, 1853.'

THE CHARITABLE TRUSTS AMENDMENT ACT, 1855.

18 & 19 Victoria, Chap. 124.

AN ACT to amend the Charitable Trusts Act, 1853.¹
[14th August 1855.]

*WHEREAS it is expedient to extend and amend the Charitable Trusts Act 1853, as hereinafter provided: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in the present Parliament assembled, and by the authority of the same, as follows:—*²

¹ Any provisions of this Act inconsistent with the Charitable Trusts Act, 1860, are repealed by that Act.

² Repealed by Stat. Law Rev. Act, 1892.

16 & 17 Vict. c. 137, and this Act to be construed together.

1. 'The Charitable Trusts Act, 1853,' hereinafter called 'the principal Act,' and this Act, shall be construed together as one Act, and any provisions of the principal Act inconsistent with this Act are hereby repealed.

Provision as to the Salary of One of the Commissioners repealed.

2.¹

¹ This section dealt only with the Commissioners' salaries, and is repealed by Stat. Law Rev. Act, 1875.

Power to appoint additional Inspectors.

3.¹

¹ This section is repealed by Charitable Trusts Act, 1887, §6, and replaced by §2 of that Act, by which Assistant Commissioners are substituted for Inspectors. See p. 512.

The Acts of the Board, how to be authenticated.

4. Every Act of the board¹ may be sufficiently authenticated by the seal of the commissioners, and the signature of their secretary, or in his absence of the chief clerk.²

¹ The Board of Education Act, 1899, §7 (2) provides that that Board shall have an official seal, and every Act of that Board relating to endowments which are solely educational should be sealed with it. (*In re Thomas v. Harford*, 48 L. T. 262.)

² Repealed by Charitable Trusts Act, 1887, §6; other provisions substituted by §3.

Entries in and Extracts from the Books of the Board, how to be authenticated.

5. All orders, certificates, schemes, and other documents issued under the seal of the board shall be deemed and taken to be the originals, and copies thereof shall be entered in the books of the board, and all such entries may be sufficiently certified by the signature of the secretary, *or in his absence of the chief clerk*: every order, certificate, scheme, and other document purporting to be sealed with the seal of the board shall be received in evidence without further proof; and any writing purporting to be a copy extracted from the said books, and to be certified as aforesaid, shall be received in evidence in like manner.

The Powers of the Commissioners and Inspectors to inquire into Charities extended.

6. The board,¹ or any commissioner or *inspector*,² such *inspector* acting under the authority of the board, may require³ written accounts and statements and answers to inquiries relating to any charity, or the property or income thereof, to be rendered or made to them respectively by all or any of the following persons; that is to say,

Trustees or persons acting or concerned in the administration of the charity, its property or income, or in the receipt or payment of any moneys thereof:⁴

Agents of any such trustees or persons:

Depositories of any funds or moneys of the charity:

Persons in the beneficial receipt of any funds thereof, or of any income or stipend therefrom:

Persons having the possession or control of any documents concerning the charity or any property thereof:

And the board or the commissioner or *inspector* may require the persons rendering or making any such account, statement, or answer to verify the same by oath or otherwise, and may administer such oath: provided always, that nothing herein contained shall extend to give to the said board or their inspectors any power of requiring from any person holding or claiming to hold any property whatsoever adversely to any charity, or free or discharged from any charitable trust or charge, any information, or the production of any deed or document whatever, in relation to the property so held or claimed adversely, or any charitable trust or charge alleged to affect the same.⁵

¹ The Board of Education Act, 1899, and Orders made thereunder provide for the transfer of the powers of the Charity Commissioners and their officers except the official trustees to the Board of Education, so far as those powers relate to solely educational endowments. (See pp. 391 to 402.)

² Now 'Assistant Commissioner' (Charitable Trusts Act, 1887, §2), or in relation to solely educational endowments 'inspector or other officer of the Board of Education.'

³ See §§8 and 9.

⁴ A testator gave a fund to trustees to apply the income in support of a school, but gave power to the tenant for life in possession of his devised estates to revoke the trusts. The court held that the tenant for life, who was also the sole trustee, was, so long as the power of revocation remained unexercised, amenable as trustee to the Commissioners. (*In re Sir R. Peel's School at Tamworth*, L. R. 3 Ch. 543.)

⁵ See also Charitable Trusts Act, 1853, §§10, 15, and Charitable Trusts Act, 1860, §19.

Power to require Trustees and others to attend and be Examined.

7. The board, or any commissioner or *inspector* acting as aforesaid, may require all or any such trustees and persons as aforesaid to attend before them respectively at such times and places as may be reasonably appointed, for the purpose of being examined in relation to the charity, and to answer such questions as may be proposed to them, and to produce upon such examination any documents in their custody or power relating to the charity or the property thereof, and may examine upon oath or otherwise all such persons and all persons voluntarily attending, and may administer such oath: Provided always, that no person shall be obliged to travel in obedience to any such requisition more than ten miles from his place of abode.¹

¹ See also Charitable Trusts Act, 1853, §§10, 12, 13, 15, and Charitable Trusts Act, 1860, §19.

Precepts or Orders for the preceding Purposes how to be made.

8. All requisitions made under the foregoing authorities shall be made respectively by the order of the board, or by precept under the hand of the commissioner or *inspector* making the same.

Persons not Complying with Requisitions, etc., to be deemed guilty of a Contempt of the Court of Chancery.

9. Any person refusing or wilfully neglecting to comply with any such requisition, or with any order of the board, made under the provisions of this Act or the principal Act, or destroying or withholding any document required to be produced or transmitted by him, shall be taken to be guilty of a contempt of the High Court of Chancery, and shall be liable to be attached and committed by such court, on summary application by the commissioners to the same court, or to any judge thereof, and shall pay such costs attending such contempt as the said court or judge shall direct: Provided always, that the court may at any time discharge, on such terms as it may deem just, any person attached or committed on any such application, or on any application made under section fourteen of the principal Act.¹

¹ See also Charitable Trusts Act, 1860, §20.

Power to apportion Parochial Charities after Division of Parishes.

10. Where any parish or ecclesiastical district entitled to the benefit of a charity has or shall have been divided into separate parishes or ecclesiastical districts, and no apportionment of charities originally applicable to the parish or district so divided shall have been made by Parliament or other competent authority, the board, in respect of all charities the gross annual income whereof does not for the time being exceed thirty pounds, may apportion the benefit of the charity between each new parish or district, or any portion thereof taken from the parish or district originally entitled to the whole benefit, and the remainder of such last-mentioned parish or district, in such manner and such proportions as, upon a consideration of the purposes of the charity, the population of each parish or district, and other circumstances, they may think fit, and may also apportion the principal endowments between such parishes or districts, if it be thought fit, and may appoint separate trustees of any part of the endowments.¹

¹ But see §§13, 14, *infra*.

Evidence as to Annual Income of any Charity not exceeding £30.

11. The certificate of the board, that according to their judgment the gross yearly income of any charity does not for the time being exceed thirty pounds, shall be sufficient evidence of the amount of such annual income for the purpose of determining the jurisdiction under the foregoing provision.

The Official Trustees of Charitable Funds may be empowered to call for Transfers to them of Stock, etc.

12. Any court or judge having jurisdiction to order the transfer of stock in the public funds, or stock or shares of any public company, to the official trustees of charitable funds, shall have power also to authorise such trustees to call for a transfer of and to transfer such stock or shares, and may also order the payment to the same trustees of any principal moneys of any charity under the same circumstances in which the transfer of stock to them may now be ordered.¹

¹ See Charitable Trusts Act, 1853, §51, and Charitable Trusts Act, 1860, §§2, 12.

Notices to be given of certain Orders of the Board.

13. No order for apportioning the benefits of any charity shall be made by the board until after such public notices shall have been given of the proposal to make the same as the board may consider expedient for insuring publicity in each parish or district in which the charity is or ought to be applied, or among all persons interested therein, nor until after the expiration of one month from the publication of such notice; and every such notice shall contain (so far as conveniently may be) sufficient particulars of the proposed order to show the objects thereof, and shall prescribe a time within which any objections thereto may be stated or transmitted to the board.

Proceedings upon the Receipt of Objections or Suggestions.

14. All objections which may be made to any proposed order shall be considered by the board, who may suspend the making thereof for further inquiry, or may modify the same, as may be found expedient; and a copy of every such order when made shall, in the case of any local charity, be deposited for the space of one month in some convenient place within the parish or one of the parishes or the district in which the charity is applicable, and also be open to inspection at the office of the commissioners, and such publicity shall be given thereto among all persons interested in the charity as the Board shall consider expedient; or if the charity be not local, then a copy of such order shall be open to inspection at the office of the commissioners, and public notice thereof shall be given in such manner as to the board shall seem fit, and in cases where there is a special visitor, notice shall be given to him.

The Official Trustee of Charity Lands constituted.

15. The secretary for the time being of the board shall be a corporation sole by the name of 'The Official Trustee of Charity Lands,'¹ for taking and holding charity lands, and by that name (instead of the name 'Treasurer of Public Charities') shall have perpetual succession; and all land, or estates or interests in land, now vested in the 'Treasurer of Public Charities' by that name shall become, upon the passing of this Act, and by virtue thereof, vested

in like manner and upon the same trusts in 'The Official Trustee of Charity 'Lands,' and all provisions of the principal Act which have reference to the treasurer of public charities shall operate as if the name of the 'Official Trustee of Charity Lands' had been used therein instead of the name of 'Treasurer of Public Charities.'²

¹ By the Board of Education (Powers) Order in Council, 1902, the powers of appointing the official trustees of charitable funds and of making orders for vesting or transferring lands or funds in, to, or from the official trustee of charity lands, or the official trustees of charitable funds are expressly excepted from the transfer of powers to the Board of Education, and the said official trustees are excepted from the officers whose powers in relation to solely educational endowments are transferred. See p. 401. In respect of solely educational endowments all the preliminary proceedings leading up to the sale or vesting of lands or funds can be carried through by the Board of Education, but the actual order for vesting or transferring is made by the Charity Commissioners.

² See also as to the official trustee of charity lands, Charitable Trusts Act, 1853, §§47 to 50; §§16 and 37 below; Charitable Trusts Act, 1860, §2; Charitable Trusts Act, 1869, §12; Charitable Trusts Act, 1887, §5.

Power to Acting Trustees to grant Leases.

16. The acting trustees of every charity, or the majority of them, provided that such majority do not consist of less than three persons, shall have at law and in equity power to grant all such leases or tenancies of land belonging thereto, and vested in the official trustee of charity lands, as they would have power to grant in the due administration of the charity if the same land were legally vested in themselves; and all covenants, conditions, and remedies contained in or incident to any lease or tenancy so granted shall be enforceable by and against the trustees or persons acting in the administration of the charity for the time being, and their alienees or assigns, in like manner as if such lands had been legally vested in the trustees granting such lease or tenancy at the time of the execution thereof, and had legally remained in or had devolved to such trustees or administrators for the time being, their alienees or assigns, subject to the same lease or tenancy.¹

¹ See Charitable Trusts Act, 1853, §50; and Charitable Trusts Act, 1869, §12.

Appointments of Official Trustees of Charitable Funds regulated.

17. The Lord Chancellor may from time to time by writing under his hand appoint any persons to be, jointly with the secretary for the time being of the said board, the official trustees of charitable funds, and remove any such trustees, and every such appointment or removal shall be published in the London Gazette.¹

¹ Repealed by §6 and other provisions substituted by §4 of Charitable Trusts Act, 1887 (p. 513).

Such Trustees to have perpetual Succession and may hold Funds in that Name.

18. The present official trustees of charitable funds, and their successors, to be so appointed, shall have perpetual succession by the name of 'The Official Trustees of Charitable Funds,' and may hold by that name stock in the public funds, and stock and shares of any public company, securities and moneys, which shall respectively devolve to their successors, the official trustees of charitable funds for the time being, without transfer or assignment.

Funds to vest in the Official Trustees for the Time being.

19. All stock in the public funds vested in the joint names of Henry Morgan Vane, Thomas Hare, and Walker Skirrow, Esquires, the present official trustees of charitable funds, shall upon the passing of this Act be transferred by the Governor and Company of the Bank of England from their names to the account of the official trustees of charitable funds.¹

¹ Repealed by Stat. Law Rev. Act, 1875.

The Official Trustees to keep Banking Account.

20. The official trustees of charitable funds shall, for the purposes of their trust, keep a banking account in their official name in the books of the Governor and Company of the Bank of England, and the Secretary of the board shall keep separate accounts of the moneys held upon such account, and belonging to each separate charity.¹

¹ Repealed by §6 and other provisions substituted by §4 of Charitable Trusts Act, 1887 (p. 513).

Mode of Drawing on the Banking Account.

21. All orders for payment of any money held upon such banking account shall be signed by one at least of the official trustees of charitable funds, not being the secretary of the board, and also by the secretary, and shall be countersigned by one of the commissioners, or shall be otherwise signed or authenticated in such manner as the Lord Chancellor shall from time to time by order under his hand direct; and such orders shall be a sufficient authority to the bank paying the same for all such payments.¹

¹ See now Charitable Trusts Act, 1887, §4. By Clause 4 of the Treasury Regulations made under that section, it is provided that all directions for the purchase, sale, or transfer of securities, and all orders to the Bank of England for the payment of money out of the account of the official trustees shall be signed by the accountant, or assistant accountant, and by one of the official trustees, and by one of the Charity Commissioners.

Trustees may Transfer Stock to Official Trustees.

22. Any trustee or other person may, on obtaining an order of the board for the purpose, transfer any stock or pay any money to the official trustees of charitable funds in trust for any charity.

As to Disposal of Principal Moneys paid to them.

23. All principal moneys belonging to any charity directed to be paid to the official trustees of charitable funds¹ shall be paid to their account at the bank, and, subject to any order of the court or judge or of the board by which respectively the payment shall have been authorised, shall be forthwith invested in the public funds in the names of the official trustees of charitable funds, for the benefit of the charity to which they shall belong.

¹ See §§12 and 22, and Charitable Trusts Act, 1860, §2.

All Dividends and Interest due to the Official Trustees of Charitable Funds to be placed to their Banking Account.

24. The dividends arising from all stock in the public funds standing in the name of the official trustees of charitable funds shall from time to time be

received by *the Governor and Company of the Bank of England*, under the authority of this Act, for the credit of the said official trustees, and shall be placed to their banking account accordingly; and all dividends and interest arising from any other stock, shares, or securities standing in the name of or held by the official trustees of charitable funds shall be paid only to *the governor and company of the Bank of England* for the account of the same trustees;¹ and *the said trustees shall from time to time execute to the said Governor and Company all such powers as shall be found necessary for enabling them to receive and give effectual discharges for the last-mentioned dividends and interest.*²

¹ See Charitable Trusts Act, 1887, §4. By clause 3 of the Treasury Regulations made thereunder all moneys to be held in trust by and all dividends and interest on securities standing in the name of the official trustees are to be paid to the cash account of the official trustees at the Bank of England, and all securities to be held in trust by the official trustees, including such as may be purchased by way of investment of money standing to their account, are to be transferred to or inscribed in the name of the official trustees in the books of the Bank of England or other company or corporation in whose books such securities are registered.

² Repealed by Charitable Trusts Act, 1887, §6.

For the Regulation of Transfers and Payments to or by the Official Trustees.

25. No transfer of any stock, shares, or securities shall be made to the official trustees of charitable funds, nor shall any money, other than the dividends or interest of any such stock, shares, or securities as aforesaid, be paid to their account, except in pursuance of an order of the Court of Chancery, or of some judge thereof, or of a *district court of bankruptcy* or county court, or of the Board; and no transfer of any such stock, shares, or securities shall be made by the official trustees, except under the order of such court or judge, or under the order of the board signed by two commissioners, or authenticated in such manner as the Lord Chancellor from time to time by any order under his hand direct;¹ and no transfer to or by the official trustees shall be permitted by *the governor and company of the Bank of England*, or other any company contrary to this provision.

¹ See now Charitable Trusts Act, 1887, §4, and clauses 3 and 4 of Treasury Regulations made thereunder referred to in the notes to §§21 and 24 above. Clause 9 of those regulations provided that no direction for transfer of securities should be given except pursuant to an order of the Commissioners authenticated as provided by §4 of this Act.

Copies of Orders affecting the Account of the Official Trustees to be sent to the Board.

26. Copies of all orders made by any court or judge for any transfer, deposit, or payment of stock, shares, securities, or moneys to or by the official trustees of charitable funds shall be forthwith transmitted to the board by the parties obtaining such orders.

Indemnity to the Bank and Others.

27. Every order made under the principal Act¹ or this Act,² requiring or authorising the transfer, payment, or deposit of any stock, shares, securities, or moneys to or with the trustees of any charity or the official trustees of charitable funds, or conferring a right to call for or to make such transfer, shall be a

complete indemnity to the Governor and Company of the Bank of England and all companies and persons for any act done pursuant to such order; and the said governor and company and other companies and persons shall be required to give effect or to conform to every such order, and it shall not be necessary for them to inquire concerning the propriety of such order, or the jurisdiction of the court or judge or the board to make the same.³

¹ Section 51.

² Sections 12, 22, 37.

³ See also Charitable Trusts Act, 1860, §23, and Charitable Trusts Act, 1887, §4.

Dividends on Stock in Name of Official Fund Trustees to be carried to Account free from Income Tax.

28. All dividends arising from any stock in the public funds standing in the name of the official trustees of charitable funds, and which shall be certified by the board to *the Governor and Company of the Bank of England* to be exempt from the property or income tax, shall be paid or carried to the banking account of the official trustees without any deduction of such tax; and all dividends arising from any stock in the public funds standing in any other names or name, and which the board shall certify to *the Governor and Company of the Bank of England* to be subject only to charitable trusts, and to be exempt from such tax, shall be paid without any deduction thereof.¹

¹ As to the exemptions of charitable endowments and schools from Income Tax, see note to §13 of the Education Act, 1902.

Restrictions of Charges and Leases of Charity Estates.

29. It shall not be lawful for the trustees or persons acting in the administration of any charity to make or grant, otherwise than with the express authority of Parliament, under any Act already passed or which may hereafter be passed, or of a court or judge of competent jurisdiction, or according to a scheme legally established, or with the approval of the Board, any sale, mortgage or charge of the charity estate, or any lease thereof in reversion after more than three years of any existing term, or for any term of life, or in consideration wholly or in part of any fine, or for any term of years exceeding twenty-one years.¹

¹ The charitable trustees of certain rents borrowed £3000 from the bank where they kept the trust account and expended it for the benefit of the charity. Held that whether they had power to anticipate the rents of future years or not, they were precluded by this section from giving any charge of the charity estate without the authority of an Act of Parliament, or a scheme, or a competent court, or of the Commissioners (*Fell v. Official Trustee*, 1898, 2 Ch. 44).

A lease granted by the trustees of a charity for more than twenty-one years without the approval of the Commissioners is void altogether and is not valid for twenty-one years, nor can any effect be given to a covenant for quiet enjoyment contained in it (*Bishop of Bangor v. Parry*, 1891, 2. Q. B. 277).

Sinking Fund to be provided for paying off Mortgages in lieu of Provision in Mortgage Deeds.

30. So much of section twenty-one of the principal Act as requires a compulsory provision to be inserted in every mortgage for the payment of the principal money borrowed by annual instalments, and for the redemption and reconveyance of the mortgaged estates within the period of not more than thirty

years, is hereby repealed; but¹ the board authorising any mortgage to be made of any charity estate shall make such provisions, by the same or any other order as to them may seem necessary, for directing the trustees or persons administering the charity to discharge the principal debt or any part thereof by such yearly or other instalments within thirty years from the date of the security as to the said board may seem fit, or to form an accumulation or sinking fund out of the income of the charity for discharging the principal debt or any portion thereof within the same period, and shall give directions as to the investment and accumulation of such fund, and the trustees for the time being, or persons administering the charity shall carry such order into effect.

¹ Repealed by Stat. Law Rev. Act, 1875.

Extension of Power of Board as to Compromise of Claims.

31. The twenty-third section of the principal Act shall extend to authorise a compromise or adjustment of any claim, demand, or cause of suit against any charity, or the trustees or administrators thereof, and the order of the board in relation thereto shall have the like effect as in the case of any compromise or adjustment for which provision is made by the said section.¹

¹ See the note to the section referred to (p. 465).

Board may authorise Payment for Equality of Exchange or Partition.

32. The board may authorise the application of any funds belonging to any charity in payments for equality of exchange¹ or partition,¹ or in payment of any expenses incident thereto, or may authorise the trustees to raise any money for such purposes by mortgage of any land acquired on such exchange or partition, or belonging to the charity.

¹ Neither this Act, nor the Act of 1853, contains any section empowering the Commissioners to authorise partitions. The Lord Chancellor in introducing the Bill of 1855 said that the Act of 1853 was deficient in reference to enabling parties to make exchanges or partitions and that this defect was remedied (Hansard 3rd series 137: 1467), but the clauses to which he referred were struck out in Committee. As regards Exchanges, see Charitable Trusts Acts, 1853, §24.

Power to ascertain Lands charged with Rents to Charities.

33. Where there shall be uncertainty as to the specific part of any lands out of which any rent, annuity, or other periodical payment, not exceeding the yearly sum of ten pounds, charged upon some part of the same lands, for the benefit of a charity, shall be payable, it shall be lawful for the board, upon the application of the trustees or persons acting in the administration of the charity, and with the consent of the persons interested, according to the aforesaid definition¹ of 'persons interested,' in the same lands, to determine by their order the land charged with such rent, annuity, or other periodical payment, which shall thenceforth stand charged with such rent, annuity, or periodical payment accordingly, to the exoneration of the residue of such lands therefrom.²

¹ The Act contains no such 'aforesaid definition.' The definition referred to was struck out in Committee of the House of Commons.

² See also Charitable Trusts Act, 1853, §§23 and 25.

Expenses of Exchanges and Partitions, and determining Application of Charges.

34. The expenses incident to the application for and procuring of any such order of exchange or partition, or order determining the land charged

with any rent, annuity, or periodical payment, shall be paid by the trustees or administrators of the charity, or by the other parties to such transactions, or by both, as the board may direct.

Incorporated Charities and Trustees for Charities may reinvest in Land.

35. Any incorporated charity, or the trustees of any charity, whether incorporated or not, may, with the consent of the board, invest money arising from any sale of land belonging to the charity, or received by way of equality of exchange or partition, in the purchase of land, and may hold such land, or any land acquired by way of exchange or partition, for the benefit of such charity, without any licence in Mortmain.

Order of Board for Investments to be carried into effect, and Cost to be raised.

36. All orders of the board for the investment of money coming to any charity or the trustees thereof on any sale, exchange, or partition shall be carried into effect by the trustees or persons administering the charity; and all moneys which the board shall order to be provided out of any income or property of a charity for the payment of the costs of any such transaction shall be provided or raised by the trustees or administrators of the charity, and applied accordingly.¹

¹ See Charitable Trusts Act, 1869, §9.

Board may direct Official Trustees to convey Lands, etc.

37. It shall be lawful for the board to authorise or order and direct the official trustee of charity lands and the official trustees of charitable funds respectively to convey lands, and to assign, transfer, and pay over stocks, funds, moneys, and securities, as the board shall think expedient.¹

¹ See also Charitable Trusts Act, 1887, §4, and notes to §§21, 24 and 25 *supra*.

Leases, etc., to be valid, notwithstanding disabling Acts.

38. All leases,¹ sales, exchanges, partitions, and transactions authorised by the board under the principal Act or this Act shall be valid and effectual, notwithstanding the Act of the thirteenth year of the reign of Queen Elizabeth, chapter ten, the Acts of the fourteenth year of the same Queen, chapters eleven and fourteen, the Acts of the eighteenth year of the same Queen, chapters six and eleven, the Act of the thirty-ninth year of the same Queen, chapter five, and the Act of the twenty-first year of the reign of King James the first, chapter one, or any disabling Act applicable to the charity the estates whereof shall be the subject of any such transaction.

¹ See Charitable Trusts Act, 1853, §§21 and 24.

Board may approve Schemes for letting Charitable Property.

39. It shall be lawful for the board to prepare, and under their seal to approve of, any scheme for the letting of the property or any part of the property of any charity; and all leases granted by any trustees or persons acting in the management of any charity, pursuant to or in conformity with such scheme, shall be valid.¹

¹ See also Charitable Trusts Act, 1853, §21.

Power to refer Bills of Costs in Charity Matters to Taxation.

40. The board may order the bill of costs or charges claimed by any attorney or solicitor on account of business conducted or transacted by him on behalf of any charity, or the trustees thereof, to be examined and taxed by the taxing masters of the Court of Chancery, or by the proper taxing officers of any of the superior courts at Westminster, who shall proceed to examine and tax the same bill accordingly; and if the same shall be reduced upon such taxation by the amount of one-sixth part or more of the amount thereof, the costs of the taxation shall be paid by such attorney or solicitor, but otherwise out of the funds of the charity by the trustees thereof; and the board may, after being satisfied as to any bill that it contains exorbitant charges, order any such bill to be so taxed, notwithstanding that the same may have been paid by the trustees of the charity at any period not more than six calendar months previously to such order; and any amount taxed off any such paid bill shall be a debt due from the attorney or solicitor to the trustees of the charity, and shall be forthwith paid by him to such trustees accordingly.

Construction of § 27 of 16 & 17 Vict. c. 137.

41. Section twenty-seven of 'The Charitable Trusts Act, 1853,' shall be construed and operate as if the words 'and the trustees of the charity shall be legally authorised to purchase and hold such land' had been omitted therefrom; and incorporated trustees of any charity shall be competent to purchase and hold lands for the purposes mentioned in the same section without licence in Mortmain.

Deeds, etc., relating to Charities may be enrolled at the Office, and Copies to be Evidence.

42. Any deed, will, or document relating to any charity may be enrolled by the board in books to be provided and kept by them for that purpose at their office, and a copy of any such deed, will, or document made from such books, and certified under the hand of the secretary or one of the Commissioners, shall be received as evidence of the contents of the same deed, will, or document.¹

¹ See also Charitable Trusts Act, 1853, §53, and Charitable Trusts Act, 1887, §3.

Construction of §§ 55 and 59 of 16 & 17 Vict. c. 137.

43. The fifty-fifth and fifty-ninth sections of the principal Act shall be construed and operate as if the words 'the office of the board' had been inserted therein in the place of the words 'the office in London of the registrar of County Courts judgments.'

Amendment of § 61 of 16 & 17 Vict. c. 137, and other Provisions made as to the Annual Returns of Accounts by Trustees of Charities.

44. Section sixty-one of 'The Charitable Trusts Act, 1853,' except so much thereof as enacts that the trustees or persons acting in the administration of every charity shall, in books to be kept by them for that purpose, regularly enter or cause to be entered full and true accounts of all money received and paid respectively on account of such charity, shall be repealed as to all accounts which such trustee or administrators shall not have been bound to render before the

passing of this Act; and¹ the trustees or administrators of every charity shall, on or before the twenty-fifth day of *March* one thousand eight hundred and fifty-six, prepare and make out and transmit to the board an account of the endowments then belonging to the charity, showing in the case of realty not in hand the manner in which the same is let or occupied, and in the case of personalty the existing investment or employment thereof, and in what names such investments are made; and such trustees or administrators shall also on or before the twenty-fifth day of *March* next after the acquisition of any endowment not included in the foregoing account prepare and make out, in like manner, and transmit to the board, a similar account of such last-mentioned endowment, and in case of any alienation, or charge, or transfer of any real or personal estate of the charity, shall on or before the twenty-fifth day of *March* then next following transmit to the board an account of such alienation, charge, or transfer, and such trustees or administrators shall also, on or before the twenty-fifth day of *March* in every year, or such other day as may be fixed for that purpose by the board, or as may have been already fixed for rendering the accounts thereof required by the principal Act, prepare and make out the following accounts in relation thereto; (that is to say),

- (1.) An account of the gross income arising from the endowment, or which ought to have arisen therefrom, during the year ending on the thirty-first day of *December* then last, or on such other day as may have been appointed for this purpose by the board:
- (2.) An account of all balances in hand at the commencement of the year, and of all moneys received during the same year, on account of the charity:
- (3.) An account for the same period of all payments:
- (4.) An account of all moneys owing to or from the charity, so far as conveniently may be:

which accounts shall be certified under the hand of one or more of the said trustees or administrators, and shall be audited by the auditor of the charity, if any; and the said trustees or administrators shall, within fourteen days after the day appointed for making out such accounts, deliver or transmit a copy thereof to the commissioners² at their office in London, and in the case of parochial charities shall deliver another copy thereof to the churchwarden or churchwardens of the parish or parishes with which the objects of such charities are identified, who shall present the same at the next general meeting of the vestry of such parishes, and insert a copy thereof in the minutes of the vestry book; and every such copy shall be open to the inspection of all persons at all seasonable hours, subject to such regulations as to the said board may seem fit; and any person may require a copy of every such account or of any part thereof, on paying therefor after the rate of twopence for every seventy-two words or figures.³

¹ Repealed by Stat. Law Rev. Act, 1875.

² When the accounts relate to solely educational endowments they should now be sent to the Board of Education. See note to §8, *supra*.

³ As to the accounts of Parochial Charities, see Local Gov. Act, 1894, §14 (6).

Board may make Orders as to Delivery and Publication of Account by Trustees, etc.

45. The board may from time to time make such orders as they may think fit in relation to the delivery or transmission of the said accounts, and the forms

of such accounts, and such orders shall be executed by all trustees and persons from whom the accounts to which they may relate are required.

Application of §64 of 16 and 17 Vict. c. 137.

46. The sixty-fourth section of the principal act shall apply as well to members of any charity within the operation of that Act as to members of any charity exempted from the operation thereof.

Acts not to apply to Roman Catholic Charities until 1st Sept. 1856.

47. Neither this Act nor the principal Act shall, until the first day of September one thousand eight hundred and fifty-six, extend or be in any manner applied to charities or institutions the funds or income of which are applicable exclusively for the benefit of persons of the Roman Catholic Persuasion, and which are under the superintendence and control of persons of that persuasion,¹ nor shall anything in this Act extend to any of the cases which by the sixty-second section of the principal Act are excepted from the operation thereof.

¹ Repealed by Stat, Law Rev. Act, 1875.

As to the Term 'Charity.'

48. In the construction of the principal Act and this Act the word 'charity'¹ shall include every institution in England or Wales endowed for charitable purposes, but shall not include any charity or institution expressly exempted from the operation of the Act of 1853, and words applying to any person or individual shall apply also to a corporation, whether sole or aggregate.

¹ See Charitable Trusts Act, 1853, §62.

Act not to extend to Eton or Winchester.

49. Nothing in this Act or in the principal Act contained shall extend to the colleges of *Eton* or *Winchester*, or either of them.

Short Title.

50. This Act may be cited as 'The Charitable Trusts Amendment Act, 1855.'

ROMAN CATHOLIC CHARITIES ACT, 1860.

23 & 24 Victoria, Chap. 134.

AN ACT to amend the Law regarding Roman Catholic Charities. [28th August 1860.]

*WHEREAS it is expedient that the laws concerning charities relating to or connected with the Roman Catholic religion in England or Wales should be amended in the particulars hereinafter provided for: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and the Commons, in this present Parliament assembled, and by the authority of the same, as follows:—*¹

¹ Repealed by Statute Law Revision Act, 1892.

Charities for lawful Purposes not to be invalidated by the Addition of unlawful Trust, but the Property may be apportioned, and the whole applied to lawful Purposes.

1. No existing or future gift or disposition of real or personal estate upon any lawful charitable trust for the exclusive benefit of persons professing the Roman Catholic religion shall be invalidated by reason only that the same estate has been or shall be also subjected to any trust or provision deemed to be superstitious, or otherwise prohibited by the laws affecting persons professing the same religion, but in every such case it shall be lawful for the High Court of Chancery, or any judge thereof sitting at Chambers, in exercise of the jurisdiction created by the Charitable Trusts Act, 1853, upon the application of Her Majesty's Attorney-General, or of any person authorised for this purpose by the certificate of the board of Charity Commissioners for England and Wales, or for the said board upon the application of the person or persons acting in the administration of such real or personal estate, or of a majority of such persons, to apportion the same estate, or the annual income or benefit thereof, so that a proportion thereof, to be fixed by such court or judge, or by the said board, as the case may require, may be exclusively subject to the lawful charitable trusts declared by the donor or settlor, and that the residue thereof may become subject to such lawful charitable trusts for the benefit of persons professing the Roman Catholic religion, to take effect in lieu of such superstitious or prohibited trusts as the said court or judge, or the said board, may consider under the circumstances to be most just; and also that it shall be lawful for the court or judge, or board, making any such apportionment by the same or any other order or orders to establish any scheme for giving effect thereto, and to appoint trustees for the administration of the several portions of such real and personal estate, according to the trusts established of the same

proportions respectively, and to vest the estate to be so apportioned in the trustees so to be appointed.

No Proceedings to be instituted as to Dealings with Roman Catholic Charities prior to 2 & 3 W. 4. c. 115.

2. No proceedings at law or in equity shall be brought or instituted on account or in respect of any dealings, transactions, matters, or things with or concerning any real or personal estate subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion which took place prior to the passing of the Act of the second and third years of the reign of King William the Fourth, chapter one hundred and fifteen: Provided that nothing herein contained shall extend to sanction or exempt from such proceedings as aforesaid the fraudulent misapplication or conversion of any such real or personal estate to any private use or purpose not being charitable.

Certain Deeds for Roman Catholic Charities not to be void if enrolled within Twelve Months from passing of Act.

3. No deed or other assurance for any charity relating to or connected with the Roman Catholic religion made subsequently to the passing of the Act passed in the ninth year of the reign of King George the Second, intituled an Act to restrain the Disposition of Lands whereby the same become inalienable, and before the passing of this Act, shall be void or voidable by reason of the same not having been made, perfected, or enrolled in the manner directed by the first-named Act, or otherwise, under the provisions of the said Act, if such deed or assurance has been or shall be, within twelve months after the passing of this Act, enrolled in the High Court of Chancery: Provided that every deed or assurance for any such charity as aforesaid coming within the provisions of the Act passed in the ninth year of the reign of King George the Fourth, intituled an Act for remedying a defect in the titles of lands purchased for charitable purposes, shall have the benefit thereof notwithstanding anything herein contained.

Expense of Enrolment, how to be defrayed.

4. *The expense of the enrolment of any deed under the third section of this Act shall be defrayed out of the property subject to the charity to which the same may relate.*¹

¹ This section is repealed by Stat. Law Rev. Act, 1875.

The Trusts of Charities in the Absence of Settlements may be ascertained from the Usage.

5. Where any real or personal estate, subject to any use, trust, gift, foundation, or disposition for any charity relating to or connected with the Roman Catholic religion, shall have been applied upon any charitable trusts relating to or connected with the same religion during any continuous period of twenty years, but the original trusts of such property shall not be ascertained by means of any written document, the consistent usage of the last preceding twenty years, or of the last period of twenty years during which any consistent usage in the application of such property shall have prevailed, shall be deemed to afford conclusive evidence of the trusts on which the same property shall have been settled.

The Act not to prejudice past or pending Proceedings or adverse Possession.

6. Nothing in this Act contained shall extend to give effect to any use, trust, gift, foundation, or disposition heretofore made which has been already avoided in any proceeding at law or in equity, or to prejudice any suit at law or in equity commenced before the passing of this Act, or to effect any property held or enjoyed beneficially by any person or persons at the time of the passing of this Act adversely to any such use, trust, gift, foundation, or disposition.

Nothing in this Act to repeal Provisions of 10 G. 4. c. 7.

7. Nothing in this Act contained shall be taken to repeal or in any way alter any provisions of an Act passed in the tenth year of His late Majesty King George the Fourth, intituled an Act for the relief of His Majesty's Roman Catholic subjects, respecting the suppression or prohibition of the religious orders or societies of the Church of Rome bound by monastic or religious vows.

Interpretation of 'Charity.'

8. In the construction of this Act, except where the context or other provisions of this Act shall require a different construction, the expression 'charity' herein contained shall be construed to mean and include the same matters and things as the like expression means and includes in the 'Charitable Trusts Act, 1853.'

Short Title.

9. This Act may for all purposes be cited as 'The Roman Catholic Charities Act.'

Extent of Act.

10. This Act shall be confined in its operation to England and Wales.

THE CHARITABLE TRUSTS ACT, 1860.

23 & 24 Victoria, Chap. 136.

AN ACT to amend the Law relating to the Administration of Endowed Charities. [28th August 1860.]

WHEREAS it is expedient to provide increased and inexpensive facilities for the administration of endowed charities: Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

The Charitable Trusts Acts to be construed with this Act.

1. 'The Charitable Trusts Act, 1853,' and 'The Charitable Trusts Amendment Act, 1855,' and this Act, shall be construed together as one Act, and any provisions of the said former Acts inconsistent with this Act are hereby repealed.

Certain administrative Powers to be exercisable by the Charity Commissioners.

2. The board of Charity Commissioners¹ for England and Wales, subject to the restrictions and rights of appeal hereinafter provided, shall have power from time to time, upon the application² of any person or persons who, under the forty-third section of 'The Charitable Trusts Act, 1853,' might be authorised to apply to any judge or court for the like purposes, to make such effectual orders as may now be made³ by any judge of the Court of Chancery sitting at Chambers, or by any county court or *district court of bankruptcy*, for the appointment or removal of trustees of any charity, or for the removal of any schoolmaster or mistress or other officer thereof, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate belonging thereto, or entitling the official trustees of charitable funds, or any other trustees, to call for a transfer of and to transfer any stock belonging to such estate, or for the establishment of any scheme for the administration of any such charity.

¹ The powers hereby conferred on the Charity Commissioners and their officers except the official trustees are now transferred to the Board of Education and its officers so far as they relate to solely educational endowments. See Board of Education Act, 1899, and Orders in Council, pp. 391-402.

² Where a formal application for a scheme has once been made, the jurisdiction of the Commissioners attaches absolutely to the Charity and cannot be stopped or put an

end to by a withdrawal of the application before the scheme has been completed and sealed. *In re Poor Lands Charity Bethnal Green*, 1891, 3 Ch. 400.

² See Charitable Trusts Act, 1853, §§28, 32, 43 to 51; Charitable Trusts Amendment Act, 1855, §12, and §12 of this Act.

Board to notify to Trustees of Charity their Intention of exercising Jurisdiction.

3. The said board, previously to making any order under the jurisdiction vested in them by this Act, shall notify to the trustees or administrators (if any) of the charity to be affected thereby their intention of exercising such jurisdiction, by notice in writing, to be delivered to them, or sent to them by the post at their last known place of abode in Great Britain or Ireland.¹

¹ Amended by Charitable Trusts Act, 1869, §4, p. 507.

The Powers to be exerciseable over no Charities of which the gross Income shall exceed £50 without Application of Trustees.

4. The said board shall not make any order, under the jurisdiction vested in them by this Act, with respect to any charity of which the gross annual income, exclusively of the yearly value of any buildings or land used wholly for the purposes thereof, and not yielding any pecuniary income, shall amount to fifty pounds or upwards, except upon the application of the trustees or persons acting in the administration of the charity, or a majority of them, to be made to the said board in writing under their hands if they shall be unincorporated, or under their common seal if they shall be incorporated,¹ and the board shall not make any order removing any trustee on the ground only of his religious belief.²

¹ As to mode of application, see Charitable Trusts Act, 1869, §5.

² See also Charitable Trusts Act, 1853, §46.

The Board shall not exercise Jurisdiction over Contentious Cases.

5. The said board also shall not exercise the jurisdiction hereby vested in them in any case which, by reason of its contentious character, or of any special questions of law or of fact which it may involve, or for other reasons, they may consider more fit to be adjudicated on by any of the judicial courts.

Notices to be given of certain Orders, and Objections or Suggestions to be received.

6. No order appointing or removing a trustee, or establishing a scheme for the administration of any charity, shall be made by the said board before the expiration of one calendar month after public notice of the proposal to make such order shall have been given, as they may consider most expedient and effectual for ensuring the publicity thereof, in each parish or district in which the charity, if of a local character, shall be applicable, or among all persons interested therein; and no order removing a trustee or schoolmaster or mistress or other officer of a charity who shall have any known place of residence in Great Britain or Ireland, and who shall not be consenting to be discharged, shall be made before the expiration of one calendar month after notice of the proposal to make such order shall have also been delivered to him or her, or sent by the post or otherwise to such his or her place of residence, and until

after sufficient hearing of the matter before the said board, or some member thereof, or one of their *inspectors*; ¹ and every notice hereby required shall contain (so far as conveniently may be) sufficient particulars of the objects of the proposed order, and shall prescribe a reasonable time within which any objections thereto or suggestions thereon may be made or transmitted to the board; and the said board shall receive and consider all such objections and suggestions, and may withhold, suspend, or modify their proposed order, as they shall thereupon, or in the result of further inquiry, or otherwise, think expedient.²

¹ Now Assistant Commissioner, Charitable Trusts Act, 1887, §2, p. 512, or in cases relating to solely educational endowments, inspectors or other officers of the Board of Education (p. 398).

² See Charitable Trusts Act, 1869, §7.

Publication of definitive Orders.

7. A copy of every such order when made shall, in the case of any local charity, be deposited for the space of one calendar month in some convenient place within the parish or one of the parishes or in the district in which the charity shall be applicable, and shall be open to public inspection there at all reasonable hours during the same period; and a copy also of every such order relating to any charity, whether local or general, shall be kept, open to public inspection at all reasonable hours, at the office of the commissioners, during a like period of one calendar month; and in each case effectual publicity shall be given to the making of the order by such means as the board shall consider most expedient for that purpose.

Power to appeal against Orders of Board.

8. The Attorney-General, or any person authorised by him or by the said board, in the case of any charity, whatever may be the yearly income of its endowments, and any trustee or person acting in the administration of or interested in any charity of which the gross yearly income to be calculated in manner ¹ aforesaid shall exceed fifty pounds, or any two inhabitants of any parish or district in which the same shall be specially applicable,² may, within three calendar months next after the definitive publication of any order of the said board appointing or removing a trustee or trustees, or for or relating to the assurance, transfer, payment, or vesting of any real or personal estate, or establishing a scheme for the administration of the charity, present a petition to the High Court of Chancery in a summary way, appealing against such order, and praying such relief as the case may require; and any school-master or schoolmistress or other officer removed by the order of the board, without the concurrence of the trustees or persons acting in the administration of the charity, or a majority of them, and without the approval of a special visitor, if any, of the charity may, within two calendar months (next after his or her removal), appeal in like manner against the order of removal; and the court, upon or before the hearing of any such petition of appeal as aforesaid or at any stage of the proceedings, may require, if it shall think fit, from the said board, their reasons for making the order appealed against or for any part of such order and may remit the same to the board for reconsideration, with or without any declaration in relation thereto, or may make any substitutive or other order in relation to the matter of the appeal, as it shall think just; and the court may make any order respecting the costs, charges, or expenses

incident to the appeal, and may also, before hearing or proceeding with the same, require from any appellant other than the Attorney-General, proper security for such costs, charges, and expenses as may be eventually payable by him; but no such petition of appeal shall be presented by any person, other than the Attorney-General, before the expiration of twenty-one days after written notice, under the hand of such appellant, of his or her intention to present such petition, shall have been delivered to the said board at their office.

¹ See §4 *supra*.

² But see now Charitable Trusts Act, 1869, §§10 and 11, p. 509.

Who may be the Respondent on Appeals.

9. The Attorney-General, if he shall think fit, or any person authorised by him or by the said board, may appear as the respondent upon any such appeal, and the court may make any order respecting the costs, charges, and expenses of the Attorney-General or other defendant.¹

¹ See also Charitable Trusts Act, 1869, §9, p. 508.

Powers to be applicable to Charities vested in Corporations, etc.

10. The jurisdiction vested by this Act in the said board shall be exercisable with reference to charities vested in any corporation sole or aggregate, who, either solely or jointly with any other person or persons, shall also be the recipients of the benefit thereof.

Jurisdiction of the District Courts of Bankruptcy and County Courts enlarged.

11. The jurisdiction vested by the Charitable Trusts Act, 1853, in the district courts of bankruptcy and county courts, over charities not possessing a larger gross yearly income than thirty pounds,¹ shall be exercisable by the said courts respectively for the like purposes and under the like provisions over charities of which the gross yearly income for the time being, to be calculated in manner aforesaid, shall not exceed fifty pounds, in the same manner as if the last-mentioned limit to the jurisdiction of the said courts had been fixed by the said former Act.

¹ See Charitable Trusts Act, 1853, §32, p. 469.

Official Trustees of Charitable Funds may be empowered to receive Arrears of Dividends.

12. Any court or judge, or the said board, having jurisdiction to authorise the official trustees of charitable funds to call for a transfer of and to transfer any annuities, stock, or securities, may empower them also to receive and recover, in trust for the charity to which the same shall belong, all dividends, interest, and income accrued from any such annuities, stock, or securities respectively, and which shall for the time being be in arrear.

Power for Magistrates to give Possession of School Buildings and Property held over by Officers or Recipients of Charities.

13. Where any schoolmaster or mistress or other officer, or any recipient of the benefit of a charity, being in possession by virtue of his or her office, or as

such recipient of any house, buildings, land, or property of the charity, shall have been removed from or shall cease to hold such his or her office, or his or her place as such recipient, but he or she, or any person claiming under him or her, shall refuse or neglect to relinquish the possession of such house, buildings, land, or property within one calendar month next thereafter, to his or her successor, or to the trustees or persons acting in the administration of the charity, or as they shall direct, it shall be lawful for any two or more justices of the peace acting for the district, division, or place in which such house, buildings, land, or property shall be situate, in petty sessions assembled, and they are hereby required, on the complaint of the said trustees or administrators, and on the production of an order of the said board certifying such schoolmaster or mistress or other officer or recipient to have been duly removed from or to have ceased to hold his or her office or place (which order under the seal of the said commissioners shall be conclusive evidence of the facts thereby certified, and of the jurisdiction of the said commissioners to make such order for all the purposes of this enactment, and shall afford a complete indemnity to all persons acting thereunder,) to issue a warrant under the hands and seals of such justices to any constables or peace officers of the same district, division, or place, commanding them, within a period to be thereby appointed, not being less than ten or more than twenty-one clear days thereafter, to enter into the premises, and deliver possession thereof to the said trustees or administrators, or their nominee or agent, and to remove therefrom such former schoolmaster or mistress, or other officer or recipient, and all persons claiming in his or her right, as fully and effectually, and subject to the same provisions, as nearly as the case will permit, as Justices of the Peace are empowered to give possession of any properties to the landlord or his agent upon the determination of the tenancy thereof, under an Act passed in the first and second years of the reign of Her Majesty, chapter seventy-four, for facilitating the recovery of possession of tenements after the determination of the tenancy.

Masters and Mistresses of Endowed Schools to be removable.

14. Every schoolmaster and mistress appointed after the date of this Act shall be removable from his or her office, after reasonable notice by the trustees or persons acting in the administration of the charity, as they shall think expedient in the interests thereof, so nevertheless that the removal by virtue only of this provision of a master or mistress who would be otherwise irremovable from his or her office shall be determined on by all or a majority of such trustees or administrators assembled at a meeting convened by due notice, delivered or sent by the post to all such trustees or administrators who shall have any known place of residence in Great Britain or Ireland, by the space of not less than twenty-eight days previously, for the special purpose of considering and determining on the question of such removal, and of which intended meeting a notice shall also be delivered or sent in like manner to the master or mistress by the same previous space, and so also that the resolution of the meeting for the removal of any such last-mentioned master or mistress shall be forthwith certified under the hands of the trustees or persons acting as aforesaid who shall have concurred therein, or under the hand of the chairman of the meeting, and shall within seven days next thereafter be transmitted to the said board for their approval, and the same shall not take effect unless or until the same shall have been approved by the said board, who may also, if they so think fit, fix the time or any reasonable conditions at or under which the same shall come into operation; if also there shall be any special visitor of the charity who

shall be resident in Great Britain or Ireland, and free from incapacity, no removal of any such last-mentioned master or mistress shall be made under the authority only of the preceding provision without the written consent of such visitor: Provided always, that this section shall not apply to any endowed grammar school.¹

¹ See also Charitable Trusts Act, 1853, §22, p. 464; and cf. School Sites Act, 1841, §§17 and 18, p. 546; and Grammar Schools Act, 1840, §§17 and 19, p. 408.

§21 of 16 & 17 Vict. c. 137, *extended*.

15. The power vested in the said board by the twenty-first section of 'The Charitable Trusts Act, 1853,' of authorising the application of moneys belonging to any charity, or to be raised on the security of the properties thereof, to the improvement of such properties, shall extend to authorise the application of any like moneys to any other purpose or object which the board shall consider to be beneficial to the charity or the estate or objects thereof, and which shall not be inconsistent with the trusts or intentions of the foundation.

A Majority of Trustees to have Legal Power of dealing with the Charity Estates.

16.¹

¹ This section which gave power to a majority of two-thirds of the trustees of any charity assembled at a duly constituted meeting to carry into effect any disposition of property duly determined on is repealed by §17 of the Charitable Trusts Act, 1860, and replaced by §12 of that Act, p. 509.

Official Trustee not to be Accountable for Loss unless occasioned by his own Neglect.

17. No official trustee of charitable funds, *appointed under or in pursuance of the first or secondly recited Act*,¹ shall be chargeable with or accountable for any loss or misapplication of the said charitable funds, or the dividends, interests, or income thereof, unless the same shall have been occasioned by or through his own wilful neglect or default.

¹ Repealed by Charitable Trusts Act, 1887, §6, p. 514.

Accounts to be laid before Parliament.

18. The official trustees of charitable funds shall lay before Parliament annually, on or before the fourteenth day of February, or as soon as practicable after Parliament shall be sitting, an account of the total amount of the capital stock, shares, and securities transferred to them in the year ending the thirty-first day of December preceding, and of the total amount of moneys, other than dividends or interest, paid to them or to their account during the same period, and of the investment thereof, and of the capital stock, shares, and securities sold or re-transferred by them during the same period, and of the aggregate amount of the capital stock, shares, funds, and securities, and the balance of cash, held by them on such preceding thirty-first day of December.

Power to require the Transmission of Documents belonging to Charities.

19. The board may require any person having the custody or control of any deed or document in which any charity or charities shall be solely interested to transmit the same to the office of the said commissioners for examination; and where such deed or document shall not be held by any

person entitled as a trustee or otherwise to the custody thereof, the board may either retain the same, for the security thereof, in the repository provided by them under the sixty-third¹ section of 'The Charitable Trusts Act, 1853,' or, as they may think most advantageous to the charity, may thereupon, or at any time thereafter, return or issue the same to the trustees, or persons acting in the administration of the charity, for the purposes thereof.

¹ Should be 'fifty-third.' See p. 477.

Orders to be enforceable as under former Acts.

20. All orders made by the said board under the provisions of this Act shall be enforceable by the same means, and shall be subject to the same provisions, as are applicable under the Charitable Trusts Act, 1853, and the Charitable Trusts Amendment Act 1855, respectively, to any orders of the said board made thereunder.

Board to make Minutes.

21. The said board shall from time to time make such minutes as shall be required relative to the institution and conduct of their proceedings under the jurisdiction created by this Act.

Salary of the Secretary.

22.¹

¹ This section, which dealt only with the salary of the secretary, is repealed and replaced by the Endowed Schools Act, 1874, §3, p. 444.

Indemnity to the Bank of England and others.

23. Every order made under this Act under which any stock, shares, securities, or moneys shall be transferred or paid to or deposited with the trustees of any charity, or the official trustees of charitable funds, shall afford a complete indemnity to the governor and company of the Bank of England, and to all companies and persons by whom respectively any such transfer, payment, or deposit shall be permitted or made, for permitting or making the same, and the said governor and company and other companies and persons shall be required to give effect or to conform to such order, and it shall not be necessary for them to inquire concerning the propriety of the same order, or the jurisdiction under which the same shall purport to be made.

Commissioners, etc., exempted from Serving on Juries.

24. Every commissioner, secretary, and inspector acting under or employed for the purposes of the said Acts shall be exempt from serving on juries while he shall be so acting or employed.¹

¹ Repealed by the Stat. Law Rev. Act, 1875, as being inconsistent with §9 of the Jurors Act, 1870.

Short Title.

25. This Act may be cited for all purposes by the short title of 'The Charitable Trusts Act, 1860.'

THE CHARITABLE TRUSTS ACT, 1862.

25 & 26 Victoria, Chap. 112.

AN ACT for establishing the Jurisdiction of the Charity Commissioners in certain Cases. [7th August 1862.]

WHEREAS by the Acts relating to the Charity Commissioners for England and Wales authority has been given to the commissioners to make orders for various purposes in charity cases upon summary application, and particularly in relation to the appointment and removal of trustees, and the sale, exchange, leasing, and improvement of the property of charities: And whereas in various private Acts of Parliament and decrees and orders of the High Court of Chancery relating to charities such powers and authorities are often given or reserved, with directions that the same shall be exercised by the said court, or with its sanction or approbation, and doubts are entertained whether in such cases the authority given to the Charity Commissioners can be validly exercised: Be it therefore enacted and declared *by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same*, as follows:

No Provision in any Act of Parliament, or Decree relating to any Charity under any Order of the Court of Chancery, to exclude any Jurisdiction that might otherwise be exercised by the Charity Commissioners.

1. No provision contained in any such Act of Parliament or decree or order as aforesaid for the appointment or removal of trustees of any charity, or for or relating to the sale, exchange, leasing, disposal, or improvement of any property, by or under the order or with the approval of the Court of Chancery, shall (in the absence of any express direction to the contrary, to be contained in any future Act of Parliament, order, or decree,) exclude or impair any jurisdiction or authority which might otherwise be properly exercised for the like purposes by the Charity Commissioners for England and Wales.

THE CHARITABLE TRUSTS ACT, 1869.

32 & 33 Victoria, Chap. 110.

AN ACT for amending the Charitable Trusts Acts.

[11th August 1869.]

WHEREAS doubts have arisen respecting the construction of some provisions of the Charitable Trusts Acts, and it is expedient to remove such doubts and otherwise to amend those Acts :

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

PRELIMINARY.

Short title.

1. This Act may be cited as 'The Charitable Trusts Act, 1869.'

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Act to be construed with 16 & 17 Vict. c. 137 ; 18 & 19 Vict. c. 124 ; 23 & 24 Vict. c. 136 ; 25 & 26 Vict. c. 112.

3. This Act, so far as is consistent with the tenor thereof, shall be construed as one with the Charitable Trusts Act, 1853, the Charitable Trusts Amendment Act, 1855, and the Charitable Trusts Act, 1860, and the *Act of the session of the twenty-fifth and twenty-sixth years of the reign of Her present Majesty, chapter one hundred and twelve, 'for establishing the jurisdiction of the Charity Commissioners in certain cases' (which may be cited as the Charitable Trusts Act, 1862), and those Acts, together with this Act, may be cited as the Charitable Trusts Acts, 1853 to 1869.*¹

¹ Repealed by the Stat. Law Rev. Act, 1893, where the section is by mistake referred to as §2.

Amendment of §3 of 23 & 24 Vict. c. 136.

4. A notice under section three of the Charitable Trusts Act, 1860, need not be sent by the board of Charity Commissioners for England and Wales to any trustee or administrator of a charity who has been party or privy to the application to the board upon which they exercise their jurisdiction.

Mode of application to Board.

5. An application to the board of Charity Commissioners for England and Wales, for the purposes of the Charitable Trusts Acts, 1853 to 1869, when made by the trustees or persons acting in the administration of the charity, may be made in writing signed by any person authorised in that behalf by a resolution passed by a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question.

Powers of Board on Application.

6. The board shall be deemed to have and to have always had power in any order made upon an application to them, for the exercise of their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, to insert in the order any incidental provisions which they think expedient for carrying into effect the substantial objects of the application, and which they would have had power to insert if such provisions had been included in the application.

Notice of Order.

7. Nothing in the Charitable Trusts Acts, 1853 to 1869, shall be deemed to require or to have required the board, upon modifying a proposed order in manner provided by section six of the Charitable Trusts Act, 1860, after the publication thereof, to give public notice of such modified order in the manner provided by that section with respect to the order originally proposed, unless they think further notice desirable.

Discharge of Order of Board for Irregularity.

8. The board shall be deemed to have and to have always had power with or without any application to discharge, within twelve months after an order is made by them, the whole or any part of any order appearing to have been made by them by mistake or on misrepresentation, or otherwise than in conformity with the Charitable Trusts Acts, 1853 to 1869.

Every order made by the board, in exercising their jurisdiction under the Charitable Trusts Acts, 1853 to 1869, shall, until discharged or varied by the board or by the Court of Chancery on appeal under section eight of the Charitable Trusts Act, 1860, have effect according to its tenor.

Every order of the board shall, subject to all powers which the Court of Chancery has to discharge or vary it, under section eight of the Charitable Trusts Act, 1860, and subject to the power of the board to discharge it wholly or partially for the causes mentioned in this section, be deemed to have been duly and formally made, and no objection thereto on the ground only of irregularity or informality shall be entertained.

• *Employment of Persons to prepare and defend Scheme.*

9. The board, if they think it desirable, where the gross annual income of a charity is in their opinion sufficient to bear the expense, may, upon the application of the trustees or of any other person or persons entitled to apply to them in that behalf, employ or may authorise the trustees or persons acting in the administration of such charity to employ skilled and competent persons to prepare any scheme, order, statement, or other proceeding for the purposes of the Charitable Trusts Acts, 1853 to 1869, with respect to such charity, or to make or assist in any survey or local inquiry with reference thereto, and may

order the costs incurred under this section or upon any inquiry by an *inspector*, or in consequence of the employment of any person to appear on behalf of the respondent upon any appeal against any scheme or order, to be provided in the same manner as if they were costs of a transaction mentioned in section thirty-six of the Charitable Trusts Act, 1855.

Appeals under 23 & 24 Vict. c. 136.

10. A petition to the Court of Chancery under section eight of the Charitable Trusts Act, 1860, may be presented in the case of all charities by the same persons only as in the case of a charity the gross annual income of which does not exceed fifty pounds.

Service of Attorney-General by appellant under §8 of 23 & 24 Vict. c. 136.

11. A petition shall not be presented to the Court of Chancery by any person under section eight of the Charitable Trusts Act, 1860, before the expiration of twenty-one days after written notice under the hand of the appellant of his intention to present such petition has been served on the Attorney-General by delivering the same to the solicitor who acts for him in *ex officio* proceedings relating to charities.

Legal Power of majority of Trustees to deal with Charity Estates.

12. Where the trustees or persons acting in the administration of any charity have power to determine on any sale, exchange, partition, mortgage, lease, or other disposition of any property of the charity, a majority of those trustees or persons who are present at a meeting of their body duly constituted and vote on the question shall have and be deemed to have always had full power to execute and do all such assurances, acts, and things as may be requisite for carrying any such sale, exchange, partition, mortgage, lease, or disposition into effect, and all such assurances, acts, and things shall have the same effect as if they were respectively executed and done by all such trustees or persons for the time being and by the official trustee of charity lands.

Legal proceedings by Trustees of Charities for protection of Charity Property, etc.

13. The majority of the trustees of any charity, if authorised by the board, may institute and maintain any action, suit, petition, or other proceeding in the same manner in all respects as if they were the sole trustees of the charity.

Where the trustees, or the majority of the trustees, of any charity, institute and maintain any action, suit, petition, or other proceeding under the authority of the board, such action, suit, petition, or other proceeding shall not abate or become discontinued or of no effect by reason of the death or removal from office of any of the trustees, or of the addition of any new trustee, but shall continue and have effect for and against the trustees for the time being of the charity, in the same manner as if they were actually named therein.

Application by exempted Charities to have benefit of Act.

14. Either the trustees or the persons acting in the administration of any charity exempted from the operation of the Charitable Trusts Acts, 1853 to 1869, may apply to the board to have the said Acts or any provisions thereof

specified in the application extended to such charity: such application shall be made by such of the said trustees or persons as having regard to the value of the charity might under the provisions of the said Acts, if the charity were not exempted therefrom, make an application for a scheme to any judge or court or to the board, and shall be made in the same manner and according to the same regulations as such application.

On any such application the board may make an order directing that the said Acts or any provisions of them specified in the application shall extend, and such Acts or provisions shall thereupon after the date of the order extend to such charity in the same manner as if it were not exempted therefrom.

Before making any order under this section the board shall cause such notices of the proposed order to be given as by section three of the Charitable Trusts Act, 1860, as amended by this Act, and by section six of the same Act are required to be given before the making of an order for establishing a scheme.¹

¹ See 16 & 17 Vic. c. 137, §3.

Extension of part of Acts to registered places of Religious Worship.

15. So much of the Charitable Trusts Acts, 1853 to 1869, as authorises and relates to orders of the board for the appointment or removal of trustees of a charity, or for or relating to the vesting of any real or personal estate belonging thereto, or for the establishment of any scheme for the administration of any charity, shall extend to buildings registered as places of meeting for religious worship with the registrar general of births, deaths, or marriages in England, and *bond fide* used as places of meeting for religious worship: Provided that no such order shall be made except upon the application of the trustees or persons acting in the administration of the charity, made in manner provided by section four of the Charitable Trusts Act, 1860, or by this Act.¹ Save as provided by this section, such buildings shall continue exempted from the Charitable Trusts Acts, 1853 to 1869.²

¹ Section 5.

² See also Charitable Trusts (Places of Religious Worship) Amendment Act, 1894, §4.

Treasury to fix Scale of Fees.—Scale to be laid before Parliament.

16. The *Lords Commissioners of Her Majesty's Treasury* may from time to time prescribe a scale of fees to be charged for any business done by the board under this or any other Act, and may direct whether the same shall be imposed by stamps or otherwise, and by whom and in what manner the same shall be collected, accounted for, and appropriated;¹ and before any such fees shall be taken or received by the said Charity Commissioners every such scale of fees shall be published in the London Gazette. The scale of fees shall be laid before both Houses of Parliament within thirty days after the same has been so prescribed if Parliament is then sitting, and if not, within thirty days after the then next meeting of Parliament; and if any such scale shall be disapproved of by both Houses of Parliament within one month after the same shall have been so laid before Parliament, such fees or such parts thereof as shall be disapproved of shall not be charged by the board.

¹ Repealed by Stat. Law Rev. Act, 1883.

Repeal.

17. *The enactments described in the schedule to this Act are hereby repealed ; provided that,*

- (1.) *This repeal shall not affect anything already done or suffered, or any right acquired or order made, under such enactments :*
- (2.) *Any proceedings already commenced under the enactments hereby repealed shall be proceeded with in the same manner as if this repeal had not been made.*¹

¹ Repealed by Stat. Law Rev. Act, 1883.

SCHEDULE.¹

<i>Date.</i>	<i>Title.</i>
16 & 17 Vict. c. 137.	<i>An Act for the better administration of Charitable Trusts</i> } <i>In part ; namely, section sixty-three.</i>
23 & 24 Vict. c. 136.	<i>An Act to amend the law relating to the administration of Endowed Charities</i> } <i>In part ; namely, section sixteen.</i>

¹ Repealed by Stat. Law Rev. Act, 1883.

THE CHARITABLE TRUSTS ACT, 1887.

50 & 51 Victoria, Chap. 49.

AN ACT to amend the Charitable Trusts Acts, 1853 to 1869, so far as respects the officers of the Charity Commissioners for England and Wales and the Official Trustees acting under those Commissioners. [16th September 1887.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title.

1. This Act may be cited as the Charitable Trusts Act, 1887, and shall be construed as one with the Charitable Trusts Acts, 1853 to 1869, and, together with those Acts, may be cited as the Charitable Trusts Acts, 1853 to 1887.¹

¹ See also Short Titles Act, 1896.

Appointment of Assistant Commissioners.

2.—(1.) The charity commissioners for England and Wales (in this Act referred to as 'the Board') may from time to time with the approval in each case of the commissioners of Her Majesty's Treasury (in this Act referred to as the Treasury) appoint assistant commissioners, and may remove any such assistant commissioner.

(2.) The number and salaries of the assistant commissioners under this Act shall be such as the Treasury may from time to time sanction.

(3.) Each assistant commissioner under this Act shall have the same powers as an inspector under the Charitable Trusts Acts, 1853 to 1869, and the sections of the Charitable Trusts Acts, 1853 to 1869, specified in the First Schedule to this Act, shall have effect as if 'assistant commissioner' or 'assistant commissioner' were therein substituted for 'inspector' or 'inspectors,' as the case may be, and each assistant commissioner acting under the authority of the board may exercise the said powers for any purpose of or incidental to any duties imposed on the board by Parliament under any present or future Act.

(4.) The power of appointing inspectors under the Charitable Trusts Acts, 1853 to 1869, shall cease.¹

¹ See Charitable Trusts Act, 1853, §1, and Charitable Trusts Amendment Act, 1855, §3. Now by the Board of Education Act, 1899, and Orders made thereunder, the

powers conferred on assistant commissioners under the Charitable Trusts Acts, so far as they relate to endowments which are solely educational, are transferred to the Board of Education (p. 401) and for the purposes of the transfer references to Assistant Charity Commissioners are to be construed as references to inspectors and other officers of the Board of Education (p. 398).

Provision for Absence of Secretary.

3. The signature of any officer of the board (whether assistant secretary or other) who for the time being is authorised by an order of the board signed by two commissioners to act on behalf of the secretary of the board shall, for all purposes of the Charitable Trusts Acts, 1853 to 1869, or any other enactment, be as valid as the signature of the secretary; and a reference in any enactment to the signature of the secretary shall include a reference to the signature of such officer, and any document signed by an officer expressed to be so authorised shall be received in evidence without proof of the authority.¹

¹ For the purposes of the transfer of powers to the Board of Education references to the secretary and other officers of the Charity Commissioners are to be construed as references to the secretary and other officers of the Board of Education.

Amendment of Charitable Trusts Acts as to Official Trustees of Charitable Funds.

4.—(1.) From and after the date fixed by a regulation under this section, such officers of the board as the board with the approval of the Treasury from time to time appoint shall, in lieu of the persons mentioned in the Charitable Trusts Amendment Act, 1855, be the official trustees of charitable funds;¹

Provided that any inspector or officer of the board, who at the passing of this Act is official trustee of charitable funds, and is not, after the passing of this Act, appointed to be official trustee shall, while he continues to hold his inspectorship or office, receive not less salary than he received while official trustee.

(2.) From and after the said date, notwithstanding anything in the Charitable Trusts Acts, 1853 to 1869, the Treasury may, by regulations to be made or approved by them, from time to time prescribe:

- (a) the accounts to be kept by the said official trustees and the mode in which and the persons by whom such accounts and the banking accounts, and any other accounts required by the Charitable Trusts Act, 1853 to 1869, to be kept by or on behalf of the official trustees of charitable funds, are to be kept;
- (b) the mode in which orders authorised by law for the payment of any money to or by the said official trustees or held upon their banking account, or for the transfer of any stock or securities to or by the said official trustees, are to be signed, authenticated, and carried into effect; and
- (c) the mode in which the business of the said official trustees generally is to be conducted:

Provided that separate accounts shall continue to be kept for each charity.

(3.) The accounts of the said official trustees shall be audited by such person and in accordance with such regulations as the Treasury from time to time appoint or prescribe.

(4.) A regulation under this section, or an order made under any such regulation, shall be a complete indemnity to the governor and company of the

Bank of England, and all companies and persons, for any act done pursuant to such regulation or order, and the said governor and company, and other companies and persons, shall conform to such regulation or order.²

¹ The Board of Education Powers (Order) in Council, 1902, §1 (p. 401) expressly excepts the power of appointing the official trustees of charitable funds and of making orders for vesting or transferring lands or funds in, to, or from the official trustee of charitable lands or the official trustees of charitable funds from the powers transferred to the Board of Education in relation to solely educational endowments.

² The other provisions in the Charitable Trusts Act relating to the official trustees of charitable funds are: Act of 1853, §§51, 52; Act of 1855, §§12, 17 to 28, 37; Act of 1860, §§2, 12, 17, 18, 23; Act of 1887, §6 (b).

Regulations were made by the Treasury under this section, dated the 27th March 1889. As to the 3rd, 4th, and 9th of these regulations, see notes to Charitable Trusts Amendment Act, 1855, §§24, 21 and 25. Clause 2 defines the term 'securities' as including all government or other annuities or securities and all stocks or shares standing in or to be transferred into the name of the official trustees of charitable funds in the books of the Bank of England or of any other company or corporation, and 'funds' as including money and securities standing or to be placed to the account or standing or to be transferred into the name of the said official trustees. Clause 5 provides that in addition to the separate ledger accounts to be kept in the accountant's branch of the office of the Charity Commissioners for each charity in respect of which any funds are placed in the name of the official trustees general ledger accounts shall be kept showing the aggregate amounts of the receipts, payments, and transfers of the several descriptions of funds distributed over the separate charity accounts and of the balances thereof.

*Declaration as to Power of Official Trustee of Charity Lands
to take and hold Lands.*

5. The official trustee of charity lands shall be authorised and be deemed always to have been authorised to take and hold all such land and estate or interest in land, as, in pursuance of an order of the board, is conveyed to or vested in him by any deed or assurance or otherwise.

Repeal.

6. The Acts specified in the Second Schedule to this Act are hereby repealed to the extent in the third column of that schedule mentioned: Provided that

- (a) this repeal shall not affect anything already done or suffered, or the tenure, salary, or powers of any officer holding office at the passing of this Act;
- (b) this repeal, so far as regards the official trustees of charitable funds, shall take effect on the date on which regulations under this Act in relation to such trustees come into operation,

SCHEDULES.

FIRST SCHEDULE.

SECTIONS OF CHARITABLE TRUSTS ACTS RELATING TO INSPECTORS
AND APPLIED TO ASSISTANT COMMISSIONERS.

Session and Chapter.	Title of Act.	Sections applied.
16 & 17 Vict. c. 137,	The Charitable Trusts Act, 1853.	Sections five, nine, ten, eleven, twelve, fourteen, fifteen, nineteen, twenty-three, fifty-four, fifty-six, fifty-seven, and fifty-eight.
18 & 19 Vict. c. 124,	The Charitable Trusts Amendment Act, 1855.	Sections six, seven, and eight.
23 & 24 Vict. c. 136,	The Charitable Trusts Act, 1860.	Section six.
32 & 33 Vict. c. 110,	The Charitable Trusts Act, 1869.	Section nine.

SECOND SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title of Act.	Part repealed.
16 & 17 Vict. c. 137,	The Charitable Trusts Act, 1853.	So much of section one as relates to the inspectors; section four, section fifty-one down to 'charitable funds and' inclusive, and section fifty-two down to the words 'each separate charity and' inclusive.
18 & 19 Vict. c. 124,	The Charitable Trusts Amendment Act, 1855.	Section three; in section four the words 'or in his absence, of the chief clerk'; in section five the words 'or in his absence of the chief clerk'; section seventeen; in section eighteen the word 'present,' and the words 'to be so appointed'; section twenty, from the words 'and the secretary' inclusive to end of section; section twenty-four, from 'and the said trustees' inclusive to end of section.
23 & 24 Vict. c. 136,	The Charitable Trusts Act, 1860.	In section seventeen the words 'appointed under' or in pursuance of the first or secondly recited 'Act.'

THE CHARITABLE TRUSTS (RECOVERY) ACT, 1891.

54 Victoria, Chap. 17.

AN ACT to facilitate the Recovery of Rentcharges and other
Payments owing to Charities. [11th May 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title and Construction.

1. This Act, so far as is consistent with the tenor thereof, shall be construed together with the Charitable Trusts Acts, 1853 to 1869, and those Acts and this Act may be cited together as the Charitable Trusts Acts, 1853 to 1891, and this Act may be cited as the Charitable Trusts (Recovery) Act, 1891.¹

¹ See also Short Titles Act, 1892, §1.

Interpretation.

2. In this Act, unless the context requires otherwise,—

The expression 'the board' means the Charity Commissioners for England and Wales :

The expression 'prescribed' means prescribed by rules made under the provisions of this Act.

Power to Board to sue for Recovery of Property belonging to Charities.

3. Where it appears to the board that any action, petition, or other proceeding should be instituted for the recovery of any property, the gross annual income of which does not, in the opinion of the board, exceed twenty pounds a year, and which appears to the board to belong to a charity, the board may itself, with the sanction of the Attorney-General, institute such proceeding on behalf of the charity ; and the expenses of the board of and incidental to such action, petition, or proceeding shall be paid in like manner as if they were costs of the Attorney-General in a charity matter.

Mode of Procedure by Board.

4.—(1.) When the board is authorised to make any application to or appear in any court, or to institute any action, petition, or other proceeding,

such application or appearance may be made, and such action, petition, or proceeding may be instituted, in the name of the Charity Commissioners for England and Wales, and not in the names of the persons who are the commissioners.

(2.) Any action, petition, application, appearance, or other proceeding instituted or made by the board shall not abate or become defective by reason of any change in the persons who are the commissioners, but the commissioners for the time being shall be deemed to be parties thereto.

(3.) For the purposes of any such action, petition, application, appearance, or other proceeding, any document may be served on the board by being addressed to the board and delivered at or sent by post to the office of the board, or by being served on the secretary to the board.

(4.) Any application by the board to the court in pursuance of this Act may be made in manner for the time being directed by rules of court.¹

¹ For Rules of the Supreme Court as to such applications, *see* p. 518.

Special remedies given to Board.

5. For the purposes of any action, petition, or proceeding instituted by the board under this Act the following provisions shall have effect:—

Old Reports of Charity Commissioners to be Evidence.

- (1.) The printed reports of the Charity Commissioners appointed under an Act passed in the fifty-eighth year of the reign of His Majesty George the Third, and intituled ‘An Act for appointing commissioners to inquire concerning charities in England for the ‘education of the poor,’ and under other Acts for inquiring into charities, shall be admissible as *prima facie* evidence of the documents and facts therein stated; provided that either party intending to use any such report as evidence shall give notice of such intention in the prescribed manner to the other party:

Payment for twelve years to be Presumptive Evidence.

- (2.) Where any yearly or other periodical payment has been made in respect of any land, to or for the benefit of any charity or charitable purpose, for twelve consecutive years, such payment shall be deemed, subject to any evidence which may be given to the contrary, *prima facie* evidence of the perpetual liability of such land to such yearly or other periodical payment, and no proof of the origin of such payment shall be necessary.

Rules.

6. Rules for practice and procedure under this Act, including fees and costs, whether in the Supreme Court of Judicature or in the county court, may from time to time be made by the authority and in the manner by and in which rules may be made for regulating the practice and procedure in such supreme court or county court, as the case may be.¹

¹ For Rules of the Supreme Court so made, *see* next page.

Extent of Act.

7. This Act shall not extend to Scotland or Ireland.

THE CHARITABLE TRUSTS (RECOVERY) ACT, 1891.

RULES OF THE SUPREME COURT.

27th May 1892.

1. In these rules 'the Act' means the Charitable Trusts (Recovery) Act, 1891.¹

'The court' means the Chancery Division of the High Court.

2. Proceedings by the board under the Act may be commenced by originating summons.

3. It shall not be necessary to make the trustees (if any) or persons acting in the administration of the charity, or the official trustee of charity lands, or the official trustees of charitable funds, parties to any proceeding under the Act, unless the court or a judge otherwise orders; and for the purposes of proceedings under the Act, the board shall be deemed to represent all parties interested in the charity.

4. The notice in section five, subsection (1), of the Act mentioned shall be a two days' notice in writing, and shall be served on the opposite party or his solicitor; but the court or a judge may give leave for shorter or substituted or other notice, and the notice may be given before appearance.

5. Any order for production of documents or other discovery against the board shall be made upon their secretary for the time being.

6. These rules shall commence on the fourteenth of June 1892, and may be cited as the rules of the supreme court (Charitable Trusts Recovery), 1892.

¹ See preceding pages.

FORMS IN USE BY THE BOARD OF EDUCATION.¹

REGULATIONS FOR MEETINGS AND CONDUCT OF BUSINESS
BY GOVERNORS OF EDUCATIONAL FOUNDATIONS.

MEETINGS AND PROCEEDINGS OF GOVERNORS.

Meetings of Governors, stated and special.

1. The Governors shall hold ordinary or stated meetings at least twice in each year. A special meeting may at any time be summoned by the Chairman or any two Governors upon four days' notice being given to the other Governors of the matters to be discussed.

Chairman.

2. The Governors shall, at their first ordinary or stated meeting in each year, elect one of their number to be Chairman of their meetings for the year. They shall make regulations for supplying his place in case of his death, resignation, or absence. In default of any such regulations the first business at any meeting shall be the election of a Chairman of the meeting. The Chairman shall always be re-eligible.

Rescinding Resolutions.

3. Any resolution of the Governors may be rescinded or varied at a subsequent meeting, if due notice of the intention to rescind or vary the same has been given to all the Governors.

Adjournment of Meetings.

4. If at the time appointed for a meeting a sufficient number of Governors to form a quorum are not present, or if at any meeting the business is not completed, the meeting shall stand adjourned *sine die*, and a special meeting shall be summoned as soon as conveniently may be. Any meeting may be adjourned by resolution.

Minutes and Accounts.

5. A minute book and books of accounts shall be provided and kept by the Governors. All proper accounts in relation to the Foundation shall in each year be made out and certified, and copies sent to the Board of Education in such form as the Board may require.

Publication of Accounts.

6. On sending accounts for any year to the Board of Education the Governors shall exhibit for public inspection in some convenient place in copies of the accounts so sent for that year, giving due public notice where and when the same may be seen, and they shall at all reasonable times allow the accounts for any year or years to be inspected, and copies thereof or extracts therefrom to be made, by all persons applying for the purpose.

General Power to make Regulations.

7. Within the limits prescribed by the Scheme, the Governors shall have full power from time to time to make regulations for the management of the Foundation, and for the conduct of their business, including the summoning of meetings, the deposit of money at a proper bank, the custody of documents, and the appointment during their pleasure of a Clerk or of any necessary officers at such a rate of remuneration as may be approved by the Board of Education.

¹ For Form of Application for Scheme see p. 390.

MANAGEMENT OF PROPERTY.

Repairs and Insurance.

8. The Governors shall keep in repair and insure against fire all the buildings of the Foundation not required to be kept in repair and insured by the lessees or tenants thereof.

Management of Property.

9. The property of the Foundation not occupied for the purposes thereof shall be let or otherwise managed by the Governors according to the general law applicable to the management of property by Trustees of charitable foundations.

Letting of Property.

10. In every case public notice of the intention to let any land or other property shall be given by the Governors in such manner as they shall consider most effectual for ensuring full publicity. The Governors shall not create any tenancy in reversion, or for more than 21 years certain, or for less than the improved annual value at rackrent, without the sanction of the Board of Education or a competent Court.

Leases.

11. The Governors shall provide that on the grant by them of any lease, the lessee shall execute a counterpart thereof; and every lease shall contain a covenant on the part of the lessee for the payment of rent, and all other usual and proper covenants applicable to the property comprised therein, and a proviso for re-entry on non-payment of the rent or non-performance of the covenants.

Timber and Minerals. Surplus Cash.

12. Any money arising from the sale of timber, or from any mines or minerals on the estates of the Foundation; and

Any sum of cash now or at any time belonging to the Foundation and not needed as a balance for immediate working purposes; shall (unless otherwise ordered by the Board of Education) be treated as capital and be invested in the name of the Official Trustees of Charitable Funds in trust for the Foundation in augmentation of its endowment.

COPIES OF SCHEME.

Scheme to be Printed and Sold.

13. The Governors shall cause the Scheme to be printed, and a copy to be given to every Governor, Headmaster, Headmistress, and other Teacher, upon entry into office, and copies may be sold at a reasonable price to all persons applying for the same.

FORM OF APPLICATION FOR AUTHORITY TO SELL.

TO THE BOARD OF EDUCATION.

In the Matter of ¹

in the Parish of
in the County of

In the Matter of the Charitable Trusts Acts, 1853 to 1894; and

In the Matter of the Board of Education Act, 1899, and the Board of Education (Powers) Orders in Council, 1900 to 1902.

¹ Insert the usual name of the Foundation, and the name of the parish, township, or place for the benefit of which it is administered.

¹ The **Governors**
Trustees of the above-mentioned Foundation, being of opinion that a Sale of the property hereinafter mentioned will be advantageous to the Foundation, hereby apply to the Board to authorise the proposed Sale, and to give such directions in relation thereto, and for securing the due investment of the money arising from the Sale, as the Board may think fit.

The **Governors**
Trustees submit to the Board the following particulars as to :—

1. The place, nature, extent and description of the property proposed to be sold, and the interest of the Foundation therein.

NOTE.—Where the property proposed to be sold comprises a School, towards the erection of which a contribution has been made, whether by the Treasury or by the Board of Education from public funds, the fact should be stated.

2. The special circumstance under which the Sale is proposed, and the advantages likely to result to the Foundation therefrom.

3. Whether the Sale is proposed to be made by public auction or private contract, and if by private contract the amount and other terms of the offer, and the name, description and address of the proposed purchaser.

4. Whether the purchaser will accept the title of the **Governors**,
Trustees, and, if not, whether he will pay the expenses of the deduction and verification of any title which he may require.

5. Whether the purchaser will pay the expenses of the **Governors**,
Trustees in the matter, including those of the Surveyor's Report, and of advertisement.

6. The manner in which it is proposed that the purchase money shall be applied or invested.

NOTE.—It is the practice of the Board to require that investments shall be made in the name of the Official Trustees of Charitable Funds.

according to declare that the foregoing statement is in all respects true
information and belief.

Dated 190

2

This Application must be accompanied by the Report of a Surveyor acting solely in the interests of the Foundation.

The following are the instructions to be followed by the Surveyor in making the the report referred to :—

BOARD OF EDUCATION.

PROPOSALS FOR SALES.

Instructions to Surveyors.

A Surveyor should be instructed by the **Governors** of the Foundation to
Trustees inspect the property proposed to be sold, and to forward to this Office, for the

¹ The application may be made by the Governors or persons acting in the administration of the Foundation, or by some person acting on their behalf and by their direction.

² The signature, address, and description of each individual applicant should be added here.

If the applicants be a corporate body their seal should be attached.

information of the Board, a Valuation and Report based upon their inspection, together with a plan of the property, showing its abutments and approaches, and identifying it, as far as possible, with its description in the Tithe Apportionment of the Parish, or in any authoritative Map or Survey of the locality.

The Report should furnish information upon the following, as well as upon any other material points :—

1. The situation and general description of the property, stating the Pariah (and Township or other subordinate area, if any), in which it is comprised, its exact extent and the mode of cultivation.

2. The tenancy and present rental of the property, and state of cultivation of the land, the condition of the buildings, and the amount of outlay upon them necessary for the maintenance of the full rent of the property.

3. The present improved annual letting value, and the amount and incidence of the Land Tax, Tithe Rent Charge, Rates, and other outgoings.

4. The ordinary market value in fee simple in possession.

5. The additional value (stated separately) either by way of accommodation to an adjoining owner, or to a tenant, or for building purposes.

6. The prospect of a future increase in value as building land, for mining purposes, or otherwise.

7. The separate values (if any) of the timber upon, and of the minerals, brick, earth, etc., underlying the property.

8. The mode in which a sale may most advantageously be effected, whether by private contract or by public auction, and the number, extent, and separate values of the lots (if any) into which the property should be divided, and which should be indicated on the plan.

9. Where part only of the property is proposed to be sold, the effect of a sale upon the remainder of the property, and upon the value of the part offered for sale.

FORM OF CONDITIONS OF SALE

where property is vested in Governors
Trustees

BOARD OF EDUCATION.

The property offered for sale forms part of the [ancient] endowment of the Foundation called

created by
dated the

day of

of which Foundation the vendors are the present Governors
Trustees under or by virtue of

dated the day of 1 . The property is offered for sale by the vendors as Trustees of the Foundation under the authority of the Board of Education. The purchaser shall admit the sufficiency of the title of the vendors under the said , and the vendors shall not be bound to deliver any abstract of title, or to produce any other evidence of their title to the property sold, than the said , an attested copy of which will be furnished to the purchaser, if desired by him, at his expense, but the original of which will be retained by the vendors; and an official copy of the Order of the Board authorising the sale, and a statutory declaration made by some competent person, that the property sold has been in the possession of the Governors
Trustees for upwards of thirty years, which copies and declaration respectively shall be prepared and furnished at the expense of the purchaser.

FORM OF CONDITIONS OF SALE

where property is vested in the Official Trustee of Charitable Lands.

BOARD OF EDUCATION.

The property offered for sale forms part of the [ancient] endowment of

and
the sale is made with the consent and under the authority of an Order of the Board of Education.

The legal estate in the property is now vested in the Official Trustee of Charity Lands, under

The vendors are selling as the ^{Governors} Trustees of the Foundation appointed by [under the provisions of a Scheme]

and the purchaser shall admit the sufficiency of the title of the said ^{Governors,} Trustees, and the vendors shall not be bound to deliver any abstract of title, or to produce any deeds or any other evidence of their title to the property sold than official copies of the Scheme appointing the said ^{Governors,} Trustees, vesting the legal estate in the property in the Official Trustee of Charity Lands and sanctioning the present sale, and a statutory declaration made by some competent person that the property sold was included in the Scheme above-mentioned, and has been in the possession of the ^{Governors} Trustees for upwards of thirty years, which copies and declaration respectively shall be prepared and furnished at the expense of the purchaser.

The purchaser shall admit the validity of the appointment of those of the vendors who have been appointed ^{Governors} Trustees under the provisions of the said Scheme, and shall accept as correct a list of the ^{Governors} Trustees signed by their Clerk or Secretary.

FORM OF APPLICATION FOR AUTHORITY TO LEASE.

TO THE BOARD OF EDUCATION.

In the Matter of¹

in the Parish of
in the County of

In the Matter of the Charitable Trusts Acts, 1853 to 1894; and

In the Matter of the Board of Education Act, 1899, and the Board of Education (Powers) Orders in Council, 1900 to 1902.

² The ^{Governors} Trustees of the above-mentioned Foundation, being of opinion that the property hereinafter mentioned, belonging to the Foundation, may be beneficially let on lease, request the Board to make such order as they may think fit in relation to the proposed lease.

¹ Insert the usual name of the Foundation, and the name of the parish, township, or place for the benefit of which it is administered.

² The application may be made by the Trustees or persons acting in the administration of the Foundation or by some person acting on their behalf and by their direction.

The ^{Governors} Trustees submit to the Board the following particulars as to :—

1. The place, nature, extent, and description of the property proposed to be leased and the interest of the Foundation therein.

2. The object of the proposed lease, whether for building, repairing, improving, mining, or other purposes ; the length of the proposed term ; and the nature of any *special* covenants or provisions intended to be inserted in the lease.

3. The name, description, and address of the proposed lessee.

4. The amount and particulars of the proposed rent, and other reservations, if any.

declare that the foregoing statement is in all respects true according to information and belief.

Dated

190 .

¹

This Application must be accompanied by the report of a Surveyor acting solely in the interests of the Foundation.

¹ The signature, address, and description of each individual applicant should be added here. If the applicants be a corporate body their seal should be attached.

MORTMAIN AND CHARITABLE USES ACT, 1888.

51 & 52 Victoria, Chap. 42.

AN ACT to consolidate and amend the Law relating to
Mortmain and to the disposition of Land for Charitable Uses.
[13th August 1888.]

BE it enacted by the Queen's most Excellent Majesty, by and with the
advice and consent of the Lords Spiritual and Temporal, and Commons, in this
present Parliament assembled, and by the authority of the same, as follows :

PART I¹

MORTMAIN.*

Forfeiture on Unlawful Assurance or Acquisition in Mortmain.

1. (1.) Land shall not be assured to or for the benefit of, or acquired by or on behalf of, any corporation in mortmain, otherwise than under the authority of a licence from Her Majesty the Queen, or of a statute for the time being in force,† and if any land is so assured otherwise than as aforesaid the land shall be forfeited to Her Majesty from the date of the assurance, and Her Majesty may enter on and hold the land accordingly :

(2.) Provided as follows :

- (i.) If the land is held directly of a mesne lord under Her Majesty, that mesne lord may enter on and hold the land at any time within twelve months from the date of the assurance :
- (ii.) If the land is held of more than one mesne lord in gradation under Her Majesty, the superior of those mesne lords may enter on and hold the land at any time within six months after the time at which the right of the inferior lord to enter on the land expires :
- (iii.) If a mesne lord is at the time when his right of entry accrues under this Act a lunatic or otherwise under incapacity, his right of entry may be exercised by his guardian or the committee of his estate, or by such person as Her Majesty's High Court of Justice may appoint in that behalf :
- (iv.) If the right of entry under this Act is exercised by or on behalf of a

mesne lord, the land shall be forfeited to that lord from the date of the assurance instead of to Her Majesty.

* 'Alienation in mortmain in *mortua manu*, is an alienation of lands or tenements to any corporation sole or aggregate, ecclesiastical or temporal' (2 Black. Comm., 268).

The alienation of lands to corporations was regarded with disfavour by the Crown and the lords of whom the land was held, because the claims which arose on the death of individuals could not arise from the tenure of corporations, which never die, and accordingly an alienation in mortmain without license was voidable.

Inasmuch as the statutes which dealt with alienation to corporations usually also dealt with alienation to charitable uses, the term is often used to include alienation to charities, and the existing provisions of the statute law relating to mortmain and to the disposition of land for charitable uses are included together in this Act and in the Mortmain and Charitable Uses Acts of 1891 and 1892.

† As to the powers of local education authorities to hold land without licence in Mortmain, see note 9 to Education Act, 1902, §1 (p. 30); and as to assurances of land for the purpose of an elementary school, see §23 (5) of that Act.

Power to Her Majesty to grant Licences in Mortmain.

2. It shall be lawful for Her Majesty the Queen, if and when and in such form as she thinks fit, to grant to any person or corporation a licence to assure in mortmain land in perpetuity or otherwise, and to grant to any corporation a licence to acquire land in mortmain and to hold the land in perpetuity or otherwise.

Saving for Rents and Services.

3. No entry or holding by or forfeiture to Her Majesty under this part of this Act, shall merge or extinguish, or otherwise affect, any rent or service which may be due in respect of any land to Her Majesty or any other lord thereof.

¹ The Working Class Dwellings Act, 1890, enacts that Parts I. and II. of this Act shall not apply to any assurance by deed or will of land or of personal estate to be laid out in land for the purpose of providing dwellings for the working classes in any populous place provided that the quantity of land assured by will shall not exceed five acres and the assurance is duly enrolled.

PART II¹

CHARITABLE USES.

Conditions under which Assurances may be made to Charitable uses.

4.—(1.) Subject to the savings and exceptions contained in this Act, every assurance of land to or for the benefit of any charitable uses, and every assurance of personal estate to be laid out in the purchase of land to or for the benefit of any charitable uses, shall be made in accordance with the requirements of this Act, and unless so made shall be void.

(2.) The assurance must be made to take effect in possession for the charitable uses to or for the benefit of which it is made immediately from the making thereof.

(3.) The assurance must, except as provided by this section, be without any power of revocation, reservation, condition, or provision for the benefit of the assurator or of any person claiming under him.

(4.) Provided that the assurance, or any instrument forming part of the same transaction, may contain all or any of the following provisions, so, however, that they reserve the same benefits to persons claiming under the assurator as to the assurator himself; namely,

- (i.) The grant or reservation of a peppercorn or other nominal rent;
- (ii.) The grant or reservation of mines or minerals;
- (iii.) The grant or reservation of any easement;
- (iv.) Covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v.) A right of entry on nonpayment of any such rent or on breach of any such covenant or provision;
- (vi.) Any stipulations of the like nature for the benefit of the assurator or of any person claiming under him.

(5.) If the assurance is made in good faith on a sale for full and valuable consideration, that consideration may consist wholly or partly of a rent, rent-charge, or other annual payment reserved or made payable to the vendor, or any other person, with or without a right of re-entry for nonpayment thereof.

(6.) If the assurance is of land, not being land of copyhold or customary tenure, or is of personal estate, not being stock in the public funds, it must be made by deed executed in the presence of at least two witnesses.

(7.) If the assurance is of land, or of personal estate, not being stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made at least twelve months before the death of the assurator, including in those twelve months the days of the making of the assurance and of the death.

(8.) If the assurance is of stock in the public funds, then, unless it is made in good faith for full and valuable consideration, it must be made by transfer thereof in the public books kept for the transfer of stock at least six months before the death of the assurator, including in those six months the days of the transfer and of the death.

(9.) If the assurance is of land, or of personal estate other than stock in the public funds, it must, within six months after the execution thereof, be enrolled in the central office of the Supreme Court of Judicature, unless in the case of an assurance of land to or for the benefit of charitable uses those uses are declared by a separate instrument, in which case that separate instrument must be so enrolled within six months after the making of the assurance of the land.

Power to remedy Omission to Enrol within Requisite Time.

5.—(1.) Where an instrument, the enrolment whereof is required under this part of this Act for the validation of an assurance, is not duly enrolled within the requisite time, Her Majesty's High Court of Justice, or the officer having control over the enrolment of deeds in the central office, may, on application in such manner and on payment of such fee as may be prescribed by rules of the supreme court, and on being satisfied that the omission to enrol the instrument in proper time has arisen from ignorance or inadvertence, or through the destruction or loss of the instrument by time or accident, and that the assurance was of a nature to be validated under this section, order or cause the instrument to be enrolled.

(2.) Thereupon, if the assurance to be validated was made in good faith and for full and valuable consideration, and was made to take effect in possession immediately from the making thereof without any power of revocation, reservation, condition, or provision, except such as is authorised by this Act, and if at the time of the application possession or enjoyment was held under the assurance, then enrolment in pursuance of this section shall have the same effect as if it had been made within the requisite time:

(3.) Provided that if at the time of the application any proceeding for setting aside the assurance, or for asserting any right founded on the invalidity of the assurance, is pending, or any decree or judgment founded on such invalidity has been then obtained, the enrolment under this section shall not give any validity to the assurance.

(4.) Where the instrument omitted to be enrolled in proper time has been destroyed or lost by time or accident and the trusts thereof sufficiently appear by a copy or abstract thereof or some subsequent instrument, such copy, abstract, or subsequent instrument may be enrolled under this section in like manner and with the like effect as if it were the instrument so destroyed or lost.

(5.) An application under this section may be made by any trustee, governor, director, or manager of, or other person entitled to act in the management of or otherwise interested in, any charity or charitable trust intended to be benefited by the uses declared by the instrument to be enrolled.

PART III

EXEMPTIONS.

Assurances for a Public Park, Elementary School, or Public Museum.

6.—(1.) Parts one and two of this Act shall not apply to an assurance by deed of land of any quantity or to an assurance by will of land of the quantity hereinafter mentioned for the purposes only of a public park, a schoolhouse for an elementary school,¹ a public museum, or an assurance by will of personal estate to be applied in or towards the purchase of land for all or any of the same purposes only:

(2.) Provided that a will containing such an assurance, and a deed containing such an assurance and made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assurator, or be a reproduction in substance of a devise made in a previous will in force at the time of such reproduction, and which was executed not less than twelve months before the death of the assurator, and must be enrolled in the books of the Charity Commissioners within six months after the death of the testator, or in case of a deed the execution of the deed.

(3.) The quantity of land which may be assured by will under this section shall be any quantity not exceeding twenty acres for any one public park, and not exceeding two acres for any one public museum, and not exceeding one acre for any one schoolhouse.

(4.) In this section:

- (i.) 'public park' includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (ii.) 'elementary school' means a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at

which the ordinary payments in respect of the instruction from each scholar exceed ninepence a week ;

- (iii.) 'schoolhouse' includes the teacher's dwelling-house, the playground, (if any) and the offices and premises belonging to or required for a school ;
- (iv.) 'public museum' includes buildings used or to be used for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical or philosophical inventions, instruments, models, or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading-rooms, laboratories, and other offices and premises used or to be used in connection therewith.²

¹ The Education Act, 1902, §23 (5), enacts that this Act and so much of the Mortmain and Charitable Uses Act, 1891, as requires that land assured by will shall be sold within one year from the death of the testator, shall not apply to any assurance within the meaning of this Act of land for the purpose of a schoolhouse for an elementary school.

² This section is extended by §1 of the Mortmain and Charitable Uses Act, Amendment Act, 1892, p. 535.

Assurances for certain Universities, Colleges, and Societies.

7. Part two of this Act shall not apply to the following assurances :

- (i.) An assurance of land, or personal estate to be laid out in the purchase of land, to or in trust for any of the Universities of Oxford, Cambridge, London, Durham, and the Victoria University, or any of the colleges or houses of learning within any of those universities, or to or in trust for any of the colleges of Eton, Winchester, and Westminster, for the better support and maintenance of the scholars only upon the foundations of those last-mentioned colleges, or to or in trust for the warden, council, and scholars of Keble College :
- (ii.) An assurance, otherwise than by will, to trustees on behalf of any society or body of persons associated together for religious purposes or for the promotion of education, art, literature, science, or other like purposes of land not exceeding two acres for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected, so that the assurance be made in good faith for full and valuable consideration :

Provided that the trustees of the instrument containing any assurance to which this section applies or declaring the trusts thereof, may, if they think fit, at any time cause the instrument to be enrolled in the central office of the Supreme Court of Judicature.

Substitution of Provisions of Act for corresponding Repealed Enactments.

8. Where by any statute now in force any provision of the enactments hereby repealed is excluded either wholly or partially from application, or is applied with modification, in every such case the corresponding provision of this Act shall be excluded or applied in like extent and manner.

PART IV

SUPPLEMENTAL.

Adaptation of Law to System of Land Registration.

9. Any assurance of land which is by this Act required to be made by deed may be made by a registered disposition under the provisions of the Land Transfer Act, 1875, or of any Act amending the same, and any assurance so made shall be exempt from the provisions of this Act as to execution in the presence of witnesses, and as to enrolment in the central office of the Supreme Court.

Definitions.

10. In this Act, unless the context otherwise requires,—

- (i.) 'Assurance' includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, incumbrance, devise, bequest, and every other assurance by deed, will, or other instrument; and 'assure' and 'assuror' have meanings corresponding with assurance.
- (ii.) 'Will' includes codicil.
- (iii.) 'Land' includes tenements and hereditaments corporeal and incorporeal of whatsoever tenure, and any estate and interest in land.¹
- (iv.) 'Full and valuable consideration' includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rentcharge, or other annual payment in perpetuity, or for any term of years or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved as aforesaid.

¹ Repealed and replaced by Mortmain and Charitable Uses Act, 1891, §3, p. 533.

Extent of Act.

11. This Act shall not extend to Scotland or Ireland.

Savings for existing customs, etc.

12. Nothing in this Act shall affect the operation or validity of any charter, licence, or custom in force at the passing of this Act enabling land to be assured or held in mortmain.

Repeal.

13. (1) The Acts specified in the schedule to this Act are hereby repealed, from and after the passing of this Act, to the extent specified in the third column of that schedule:

Provided that this repeal shall not affect—

- (a) Any enactment not hereby repealed referring to any enactment hereby repealed, except that in lieu of that reference the unrepealed enactment shall be construed as if it referred to the corresponding provisions of this Act; or
- (b) The past operation of any enactment hereby repealed, or any instrument or thing executed, done, or suffered before the passing of this Act; or

(c) Any right, obligation, or liability acquired, accrued, or incurred under any enactment hereby repealed; or

(d) Any action, proceeding, or thing pending or uncompleted at the time of the passing of this Act.

(2) Whereas by the preamble to the Act of the forty-third year of Elizabeth, chapter four¹ (being one of the enactments hereby repealed), it is recited as follows:

'Whereas landes tenement^e rentes annuities pfittes hereditamentes, goodes 'chattells money and stockes of money, have bene heretofore given limited 'appointed and assigned, as well by the Queenes moste excellent Majestie and her 'moste noble progenitors, as by sondrie other well disposed psons, some for releife 'of aged impotent and poore people, some for maintenance of sicke and maymed 'souldiers and marriners, schooles of learninge, free schooles and schollers in 'universities, some for repaire of bridges portes havens causwaies churches sea-bankes and highewaies, some for educacon and pfermente of orphans, some for 'or towards reliefe stocke or maintenance for howses of correccon, some for 'mariages of poore maides, some for supportacon ayde and helpe of younge 'tradesmen, handicraftesmen and psons decayed, and others for releife or 'redemption of prisoners or captives, and for aide or ease of any poore inhabitant^e 'condninge paymente of fifteenes, settinge out of souldiers and other 'taxes; whiche landes tenements rents annuities pfitts hereditaments goodes 'chattells money and stockes of money nevtheles have not byn employed accordinge to the charitable intende of the givers and founders thereof, by reason of 'fraudes breaches of truste and negligence in those that shoulde pay delyver 'and imploy the same': and whereas in divers enactments and documents reference is made to charities within the meaning, purview, and interpretation of the said Act:

Be it therefore enacted that references to such charities shall be construed as references to charities within the meaning, purview, and interpretation of the said preamble.

¹ The Charitable Trusts Act, 1853, §66, defines 'charity' to mean every endowed foundation and institution taking or to take effect in England or Wales, and coming within the meaning, purview, or interpretation of that statute, or as to which or the administration of the revenues or property whereof the Court of Chancery has or may exercise jurisdiction (p. 482).

Short Title.

14. This Act may be cited as the Mortmain and Charitable Uses Act, 1888.

SCHEDULE.

ACTS REPEALED.

Note.—This schedule is to be read as referring to the revised edition of the statutes prepared under the direction of the Statute Law Committee, in all cases of statutes included in that edition as already published.

The chapters of the statutes (before the division into separate Acts) are described by the marginal abstracts given in that edition.

Session and Chapter.	Title.	Extent of Repeal.
7 Edw. 1.	<i>Statut de Virtis Religiosis.</i>	The whole Act.
13 Edw. 1. c. 32, . . .	Remedy in case of mortmain under judgements by collusion.	The whole chapter.
18 Edw. 3. st. 3, c. 3, . .	Prosecutions against religious persons for purchasing lands in mortmain.	The whole chapter.
15 Ric. 2. c. 5,	St. 7 Edw. 1. de Religiosis. Converting lands to a churchyard declared to be within that statute. Mortmain where any is seised of lands to the use of spiritual persons. Mortmain to purchase lands in gilds, fraternities, offices, commonalties, or to their use.	The whole chapter.
23 Hen. 8. c. 10,	An Acte for feoffments and assurance of landes and tenements made to the use of any parishe church, chapel, or suche like.	The whole Act.
43 Eliz. c. 4,	An Acte to redresse the misemployment of landes, goodes, and stockes of money heretofore given to charitable uses.	The whole Act.
7 & 8 Will. 3. c. 37, . . .	An Acte for the encouragement of charitable gifts and dispositions.	The whole Act.
9 Geo. 2. c. 36,	An Act to restrain the disposition of lands whereby the same become unalienable.	The whole Act, except so much of section five as is unrepealed.
9 Geo. 4. c. 85,	An Act for remedying a defect in the titles of lands purchased for charitable purposes.	The whole Act.
24 & 25 Vict. c. 9,	An Act to amend the law relating to the conveyance of land for charitable uses.	The whole Act.
25 & 26 Vict. c. 17,	An Act to extend the time for making enrolments under the Act passed in the last session of Parliament, intituled 'An Act to amend the law relating to the conveyance of land for charitable uses, and to explain and amend the said Act.'	The whole Act.
27 & 28 Vict. c. 13,	An Act to further extend the time for making enrolments under the Act passed in the twenty-fourth year of the reign of Her present Majesty, intituled, 'An Act to amend the law relating to the conveyance of lands for charitable uses, and otherwise to amend the said law.'	The whole Act.
29 & 30 Vict. c. 57,	An Act to make further provision for the enrolment of certain deeds, assurances, and other instruments relating to charitable trusts.	The whole Act.
31 & 32 Vict. c. 44,	An Act for facilitating the acquisition and enjoyment of sites for buildings for religious, educational, literary, scientific, and other charitable purposes.	Sections one and two.
34 & 35 Vict. c. 13,	An Act to facilitate gifts of land for public parks, schools, and museums.	The whole Act.
35 & 36 Vict. c. 24,	An Act to facilitate the incorporation of trustees of charities for religious, educational, literary, scientific, and public charitable purposes, and the enrolment of certain charitable trust deeds.	Section thirteen.

MORTMAIN AND CHARITABLE USES ACT, 1891.

54 & 55 Victoria, Chap. 73.

AN ACT to amend the Mortmain and Charitable Uses Act, 1888, and the Law relating to Mortmain and Charitable Uses. [5th August 1891.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title.

1. This Act may be cited as the Mortmain and Charitable Uses Act, 1891.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Definition of 'Land.'

3. 'Land' in the Mortmain and Charitable Uses Act, 1888, and in this Act, shall include tenements and hereditaments, corporeal or incorporeal, of any tenure, but not money secured on land or other personal estate arising from or connected with land ; and the definition of land contained in the Mortmain and Charitable Uses Act, 1888, is hereby repealed.

Meaning of 'Assurance.'

4. In this Act the word 'assurance' shall have the same meaning as in the Mortmain and Charitable Uses Act, 1888.

Land assured by Will for a Charitable Purpose to be Sold.

5. Land may be assured by will to or for the benefit of any charitable use, but, except as herein-after provided, such land shall, notwithstanding anything in the will contained to the contrary, be sold within one year from the death of the testator, or such extended period as may be determined by the High Court, or any judge thereof sitting at chambers, or by the Charity Commissioners.¹

¹ The Education Act, 1902, §23 (5), provides that so much of this section as requires that land assured by will shall be sold within one year from the death of the testator is not to apply to an assurance within the meaning of the Mortmain Act, 1888, of land for the purpose of a schoolhouse for an elementary school. Prior to the coming into

operation of that Act it was required by §6 of the Mortmain Act, 1888, that such an assurance must be enrolled in the books of the Charity Commissioners within six months after the death of the testator, or in the case of a deed after execution, and in respect of assurances to solely educational uses the Board of Education have intimated that this enrolment may be made in their books in lieu of in those of the Charity Commissioners.

Land after expiration of Time limited for Sale to be sold by Order of Charity Commissioners.

6. So soon as the time limited for the sale of any lands under any such assurance shall have expired without completion of the sale of the land, the land unsold shall vest forthwith in the official trustee of charity lands, and the Charity Commissioners shall take all necessary steps for the sale or completion of the sale of such land to be effected with all reasonable speed by the administering trustees for the time being thereof, and for this purpose the said commissioners may make any order under their seal directing such trustees to proceed with the sale or completion of the sale of the said land or removing such trustees and appointing others, and may provide by any such order for the payment of the proceeds of sale to the official trustees of charitable funds in trust for the charity, and for the payment of the costs and expenses incurred by the said administering trustees in or connected with such sale, and every such order shall be enforceable by the same means and be subject to the same provisions as are applicable under the Charitable Trusts Act, 1853, and the Acts amending the same, respectively, to any orders of the said Commissioners made thereunder.

Personal Estate by Will directed to be laid out in Land not to be so laid out.

7. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable uses shall, except as herein-after provided, be held to or for the benefit of the charitable uses as though there had been no such direction to lay it out in the purchase of land.

Power to retain Land in certain Cases.

8. It shall be lawful for the High Court, or any judge thereof sitting at chambers, or for the Charity Commissioners, if satisfied that land assured by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, by order to sanction the retention or acquisition, as the case may be, of such land.

Application of Act.

9. This Act shall only apply to the will of a testator dying after the passing of this Act.

Saving.

10. Nothing in this Act contained shall limit or affect the exemptions contained in part three of the Mortmain and Charitable Uses Act, 1888, or apply to any land or personal estate to be laid out in the purchase of land acquired under any assurance to which such exemptions or any of them apply, or shall exclude or impair any jurisdiction or authority which might otherwise be exercised by a court or judge of competent jurisdiction or by the Charity Commissioners.

MORTMAIN AND CHARITABLE USES ACT AMENDMENT ACT, 1892.

55 & 56 Victoria, Chap. 11.

AN ACT to amend the Mortmain and Charitable Uses Act,
1888. [20th June 1892.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Extension of 51 & 52 Vict. c. 42, §6.

1. Section six of the Mortmain and Charitable Uses Act, 1888, except so much of subsection (2) thereof as provides that an assurance by deed, made otherwise than in good faith for full and valuable consideration, must be executed not less than twelve months before the death of the assurator, shall apply to any assurance by deed of land to any local authority for any purpose or purposes for which such authority is empowered by any Act of Parliament to acquire land.

Definitions.

2. For the purpose of this Act 'local authority' means any county council, council of a municipal borough, sanitary authority, or any body having power to make a rate for public purposes or by the issue of any precept, certificate, or other document to require payment from some authority or officer of money which may render necessary the making of any such rate ; and 'assurance' has the same meaning as in the Mortmain and Charitable Uses Act, 1888.

Extent of Act.

3. This Act shall not apply to Scotland or Ireland.

Short Title.

4. This Act may be cited as the Mortmain and Charitable Uses Act Amendment Act, 1892.

THE SCHOOLS SITES ACT, 1841.

4 & 5 Victoria, Chap. 38.

AN ACT to afford further Facilities for the Conveyance and
Endowment of Sites for Schools.* [21st June 1841.]

Repeal of 6 & 7 W. 4. c. 70.

WHEREAS it is expedient that greater Facilities should be given for the Erection of Schools and Buildings for the Purposes of Education : May it therefore please Your Majesty that it may be enacted ; and be it enacted by the Queen's most excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the passing of this Act an Act passed in the Session held in the Sixth and Seventh Years of the Reign of His late Majesty King William the Fourth, intituled An Act to facilitate the Conveyance of Sites for School-rooms, shall be and the same is hereby repealed ; provided that all Matters and Things done in pursuance of the said Act shall be and remain valid as though the said Act was not repealed ; and all Matters and Things commenced in pursuance of the said Act shall be continued according to the Provisions of this Act, if the same shall be applicable : otherwise shall be continued conformably to the said recited Act, which shall be deemed to be still in force with regard to such Proceedings.

Landlords empowered to convey Land to be used as Sites for Schools, etc.

2. And be it enacted, That any Person, being seised in Fee Simple, Fee Tail, or for Life, of and in any Manor¹, or Lands² of Freehold, Copyhold, or Customary Tenure, and having the beneficial Interest therein, or in *Scotland* being the Proprietor in Fee Simple or under Entail, and in Possession for the Time being, may grant, convey, or enfranchise by way of Gift, Sale, or Exchange, in Fee Simple or for a Term of Years, any Quantity not exceeding One Acre of such Land, as a Site for a School for the Education of poor Persons, or for the Residence of the Schoolmaster or Schoolmistress, or otherwise for the Purposes³ of the Education of such poor Persons in religious and useful Knowledge ; provided that no such Grant made by any Person seised only for Life of and in any such Manor or Lands shall be valid, unless the Person next entitled to the same in Remainder, in Fee Simple or Fee Tail (if legally competent),⁴ shall be a Party to and join in such Grant : Provided also, that where any Portion of

* Short Title, The Schools Sites Act, 1841 (Short Titles Act, 1890). The same Act gives the collective title of the School Sites Acts to this Act and the Schools Sites Acts, 1844, 1849, 1851, and 1852.

Waste or Commonable Land shall be gratuitously conveyed by any Lord or Lady of a Manor for any such Purposes as aforesaid the Rights and Interests of all Persons in the said Land shall be barred and divested by such Conveyance. Provided also, that upon the said land so granted as aforesaid or any Part thereof, ceasing to be used for the Purposes in this Act mentioned, the same shall thereupon immediately revert to and become a Portion of the said Estate held in Fee Simple or otherwise, or of any Manor or Land as aforesaid, as fully to all Intents and Purposes as if this Act had not been passed, any thing herein contained to the contrary notwithstanding.

¹ A grant or inclosure of common under the authority of this Act is not valid if made after the 9th August 1899, unless it is either (a) specially authorised by Act of Parliament, or (b) made to or by any Government Department, or (c) made with the consent of the Board of Agriculture (Commons Act, 1899, 62 & 63 Vict. c. 30, §22).

² By §7 of the School Sites Act, 1849, land includes messuages, houses, lands, tenements, hereditaments, and heritages of every tenure.

³ The purposes of this Act are extended by School Sites Act, 1852, 15 & 16 Vict. c. 49 (*post*, p. 555).

⁴ If such person be not legally competent, the limited owner can apparently convey without his concurrence.

The three difficulties which most frequently meet a Donor who desires to give land as a site for a school are : (a) the Donor may be a limited owner, *e.g.* a tenant for life, or an authority with limited powers, and may therefore be unable to permanently alienate land by way of gift ; (b) there may be difficulty in finding a recipient who can permanently secure that the land shall not be diverted from its purpose ; (c) the gift will be void as an assurance of land for the benefit of a charitable use unless it is made in accordance with the requirements of the Mortmain Acts. The School Sites Acts will in most cases enable Donors who utilise the provisions of the Acts to avoid all three of these difficulties. Thus §§2 to 6 of the Act enable various persons and bodies, who might otherwise be unable to do so, to convey lands for the purpose of the Act, *i.e.* as a site for a School for the Education of poor Persons or for the Residence of the Schoolmaster or Schoolmistress, or otherwise for the Purposes of the Education of such poor persons in religious and useful knowledge : and §§7 and 8 enable all grants of land or buildings or any interest therein for the purposes of the Education of poor persons, whether taking effect under this Act or any other authority of law to be made to any Corporation, sole or aggregate, or to several Corporations sole, or to any Trustees whatsoever to be held for the said purposes, and expressly provide that any such grant may be made to the Minister of any Parish being a Corporation, and the Churchwardens or Chapelwardens and Overseers of the Poor. The danger that a grant so made would be void under the Statutes of Mortmain, as being made to a Corporation, was avoided by using the authority of the Acts, because land assured under the authority of a Statute for the time being in force was excepted from the operation of §1 of the Mortmain Act, 1888, and the operation of §4 (7) of that last-named Act was avoided because the School Sites Acts, 1844, §3 (p. 549), provides that the death of the Donor within twelve months shall not avoid a grant under this Act. (*See now as to an assurance of land for an elementary school* §23 (5) of the Education Act, 1902.) Where the person conveying is an absolute owner, the School Sites Act, 1849, §5, provides that there is no limit to the quantity of land which he may convey pursuant to this Act. These facilities being intended to conduce to the purpose specified, the Act provides two forms of safeguard against any misuse of the gift. In the first place a statutory form of grant is provided (§10), which states that the land is to be applied as a Site for a School for poor persons of and in the parish of ———, and for the Residence of the Schoolmaster of the said school (or for other purposes of the said school), ‘and for no other purpose ‘whatever,’ and this form of grant is rendered so effectual by the Statute that so long as the site is being used as a school, the Court cannot by ordering a sale enforce any

alienation of it from that purpose. (*Hornsey District Council v. Smith*, 1897, 1 Ch. 843.) In the next place the Act expressly provides in respect of land conveyed under §§ 2, 3 or 4, that upon the land so granted or any part thereof ceasing to be used for the purpose mentioned, it shall immediately revert to and become a portion of the estate held by the person who granted the site, as fully as if this Act had not been passed.

As the use of a site for a school is not continuous but is interrupted by vacations, etc., the phrase 'Ceasing to be used' can hardly be satisfied by a mere momentary cessation, and it would probably be held, having regard to the subject-matter, that the cessation in order to effect a reverter, must be either of such long duration, or for other reasons be of such a nature as to be inconsistent with the continued use of the premises for the purposes of the education of poor persons in religious and useful knowledge. When such a cessation takes place the land is to revert and become a portion of the said estate, as fully to all intents and purposes 'as if this Act had not been passed,' and it will be noticed that the words, 'or any such grant' 'been made,' which occur in §§3 and 4 do not occur in §2. It seems to follow that a grant made under §2, which would have been effective if the Act had not been passed, will not by reason of the reverter clause cease to be effective, even although the site may have ceased to be used for the purposes specified. (Cf. reverter clause in Places of Worship Sites Act, 1873, §1.)

The Education Act, 1902, § 7 (1) (d) expressly contemplates that the managers of a school not provided by the local education authority may charge a rent for the teacher's dwelling-house and apply it for the purposes for which they have to provide the funds. Having regard to Schedule III. (7) of that Act, by so doing the managers will not cease to use the dwelling-house for the purposes in the School Sites Acts mentioned so as to cause a reverter, even if the tenant is not a teacher in the school.

Chancellor and Council of the Duchy of Lancaster empowered to grant Lands to the Trustees of any existing or intended School. If Land cease to be used for the Purposes of the Act they shall revert.

3. And whereas it may be expedient and proper that the Chancellor and Council of Her Majesty's Duchy of Lancaster, on Her Majesty's Behalf, should be authorised to grant, convey, or enfranchise, to or in favour of the Trustee or Trustees of any existing or intended School, Lands and Hereditaments belonging to Her Majesty in right of Her said Duchy, for the Purposes of this Act; be it therefore enacted, That it shall and may be lawful for the Chancellor and Council of Her Majesty's Duchy of Lancaster for the Time being, by any Deed or Writing under the Hand and Seal of the Chancellor of the said Duchy for the Time being, attested by the Clerk of the Council of the said Duchy for the Time being, for and in the Name of Her Majesty, Her Heirs and Successors, to grant, convey, or enfranchise, to or in favour of such Trustee or Trustees, any Lands and Hereditaments to be used by them for the Purposes of this Act, upon such Terms and Conditions as to the said Chancellor and Council shall seem meet; and where any Sum or Sums of Money shall be paid as or for the Purchase or Consideration for such Lands or Hereditaments so to be granted, conveyed, or enfranchised as aforesaid, the same shall be paid by such Trustee or Trustees into the Hands of the Receiver General for the Time being of the said Duchy, or his Deputy, and shall be by him paid, applied, and disposed of according to the Provisions and Regulations contained in an Act passed in the Forty-eighth Year of the Reign of His late Majesty King George the Third, intituled An Act to improve the Land Revenue of the Crown in England, and also of His Majesty's Duchy of Lancaster, or any other Act or Acts now in force for that Purpose: Provided always, that upon the said Land so granted

as aforesaid, or any Part thereof, ceasing to be used for the Purposes in this Act mentioned, the same shall thereupon immediately revert to and become again a Portion of the Possessions of the said Duchy, as fully to all Intents and Purposes as if this Act or any such Grant as aforesaid had not been passed or made; any thing herein contained to the contrary notwithstanding.

Officers of the Duchy of Cornwall empowered, upon sufficient Authority, to grant Lands to the Trustees of any existing or intended School. If Lands cease to be used for the Purposes of the Act they shall revert.

4. And be it enacted, That for the Purposes of this Act only, and for such Time only as the same shall be used for the Purposes of this Act, it shall be lawful for any Two of the principal Officers of the Duchy of Cornwall, under the Authority of a Warrant issued for that Purpose under the Hands of any Three or more of the special Commissioners for the Time being for managing the Affairs of the Duchy of Cornwall, or under the Hands of any Three or more of the Persons who may hereafter for the Time being have the immediate Management of the said Duchy, if the said Duchy shall be then vested in the Crown, or if the said Duchy shall then be vested in a Duke of Cornwall, then under the Hand of the Chancellor for the Time being of the said Duchy, or under the Hands of any Three or more of the Persons for the Time being having the immediate Management of the said Duchy, by Deed under their Hands, to grant and convey to the Trustees or Trustee for the Time being of any existing School, or of any School intended to be established by virtue of this Act, any Lands, Tenements, or Hereditaments forming Part of the Possessions of the said Duchy of Cornwall, not exceeding in the whole One Acre in any One Parish, upon such Terms and Conditions as to the said Special Commissioners or Chancellor, or such other Persons as aforesaid, shall seem meet: Provided always, that upon the said Land so granted as aforesaid, or any Part thereof, ceasing to be used for the Purposes in this Act mentioned, the same shall thereupon immediately revert to and become again a Portion of the Possessions of the said Duchy, as fully to all Intents and Purposes as if this Act or any such Grant as aforesaid hath not been passed or made; any thing herein contained to the contrary notwithstanding.¹

¹ This section is Repealed by the Statute Law Revision Act, 1874.

Persons under Disability empowered to convey Lands for the Purposes of this Act.

5. And be it enacted, That where any Person shall be equitably entitled to any Manor or Land, but the legal Estate therein shall be in some Trustee or Trustees, it shall be sufficient for such Person to convey the same for the Purposes of this Act without the Trustee or Trustees being Party to the Conveyance thereof; and where any Married Woman shall be seised or possessed of or entitled to any Estate or Interest, manorial or otherwise, in Land proposed to be conveyed for the Purposes of this Act, she and her Husband may convey the same for such Purposes by Deed, without any Acknowledgment thereof; and where it is deemed expedient to purchase any Land for the Purposes aforesaid belonging to or vested in any Infant or Lunatic, such Land may be conveyed by the Guardian or Committee of such Infant, or the Committee of such Lunatic respectively, who may receive the Purchase Money for the same, and give valid and sufficient Discharges to the Party paying such Purchase Money, who shall not be required to see to the Application thereof.

Corporations, Justices, Trustees, &c. empowered to convey Lands for the Purposes of this Act.

6. And be it enacted, That it shall be lawful for any Corporation, Ecclesiastical or Lay, whether Sole or Aggregate, and for any Officers, Justices of the Peace, Trustees, or Commissioners, holding Land for public, ecclesiastical, parochial, charitable, or other Purposes or Objects, subject to the Provisions next herein-after mentioned, to grant, convey, or enfranchise, for the Purposes of this Act, such Quantity of Land as aforesaid in any Manner vested in such Corporation, Officers, Justices, Trustees, or Commissioners: Provided always, that no Ecclesiastical Corporation Sole, being below the Dignity of a Bishop, shall be authorised to make such Grant without the Consent in Writing of the Bishop of the Diocese to whose Jurisdiction the said Ecclesiastical Corporation is subject: Provided also, that no parochial Property shall be granted for such Purposes without the Consent¹ of a Majority of the Rate-payers and Owners of Property in the Parish to which the same belongs, assembled at a Meeting to be convened according to the Mode pointed out in the Act passed in the Sixth year of the Reign of His late Majesty, intituled An Act to facilitate the Conveyance of Workhouses and other Property of Parishes, and of Incorporations or Unions of Parishes in England and Wales, and without the Consent of the Poor Law Commissioners, to be testified by their Seal being affixed to the Deed of Conveyance, and of the Guardians of the Poor of the Union within which the said Parish may be comprised, or of the Guardians of the Poor of the said Parish where the Administration of the Relief of the Poor therein shall be subject to a Board of Guardians, testified by such Guardians being the Parties to convey the same; provided also, that where any Officers, Trustees, or Commissioners, other than parochial Trustees, shall make any such Grant, it shall be sufficient if a Majority or Quorum authorised to act of such Officers, Trustees, or Commissioners, assembled at a Meeting duly convened, shall assent to such Grant, and shall execute the Deed of Conveyance, although they shall not constitute a Majority of the actual Body of such Officers, Trustees, or Commissioners: Provided also, that the Justices of the Peace may give their Consent to the making any Grant of Land or Premises belonging to any County, Riding, or Division by Vote at their General Quarter Sessions,² and may direct the same to be made in the Manner directed to be pursued on the Sale of the Sites of Gaols by an Act passed in the Seventh Year of the Reign of His late Majesty George the Fourth, intituled An Act to authorise the Disposal of unnecessary Prisons in England.³

¹ The Local Government Act, 1894, provides that any power which may be exercised and any consent which may be given by the owners and ratepayers of a parish, or by the majority of them under the School Sites Acts, so far as respects the dealing with parish property, or the spending of money or raising of a rate, may in the case of a rural parish be exercised or given by the parish meeting of the parish (56 & 57 Vic. c. 73, §52 (1)).

² The Local Government Act, 1888, s. 64, provides that all property of the Quarter Sessions of a county, or held for any public uses and purposes of a county, shall pass to the council of the county, and that the County Council shall have full power with the consent of the Local Government Board to alienate any Lands so transferred to them.

³ This Act, 7 Geo. 4. c. 18, is now repealed by the Prisons Act, 1865.

It will be seen that this Section contains no reverter Clause, and in this respect differs from §§2, 3, and 4. In the case of *Hornsey District Council v. Smith* (1897, 1 Ch. p. 848), this was urged as a reason for saying that the land was put *extra commercium*, and there-

fore could not be rendered liable to a charge for road apportionment, but the Court held that having regard to §14 of this Act, which enables the Land to be exchanged, and to §23 of the Ed. Act, 1870, which enabled it to be let to a School Board, it was not permanently incapacitated from earning a rent and was therefore liable to the charge although the charge could not be rendered effective by sale so long as the site was used for the purposes of this Act. See p. 538.

Grants of Land may be made to Corporations or Trustees, to be held by them for School Purposes.

7. And be it enacted, That all Grants of Land or Buildings, or any Interest therein, for the Purposes of the Education of poor Persons, whether taking effect under the Authority of this Act or any other authority of Law, may be made to any Corporation Sole or Aggregate,¹ or to several Corporations Sole, or to any Trustees whatsoever, to be held by such Corporation or Corporations or Trustees for the Purposes aforesaid: Provided nevertheless, that any such Grant may be made to the Minister of any Parish being a Corporation, and the Churchwardens or Chapelwardens and Overseers of the Poor, or to the Minister and Kirk Session of the said Parish, and their Successors; and in such Case the Land or Buildings so granted shall be vested for ever thereafter in the Minister, Churchwardens, or Chapelwardens, and Overseers of the Poor² for the Time being, or the Minister and Kirk Session of such Parish, but the Management, Direction, and Inspection of the School shall be and remain according to the Provisions contained in the Deed of Conveyance thereof: Provided also, that where any Ecclesiastical Corporation Sole below the Dignity of a Bishop shall grant any Land to Trustees, other than the Minister, Churchwardens, or Chapelwardens, and Overseers,² for the Purposes aforesaid, such Trustees shall be nominated in Writing by the Bishop of the Diocese to whose Jurisdiction such Corporation shall be subject; provided that where any School shall be intended for any Ecclesiastical District not being a Parish as herein-after defined, it shall be sufficient if the Grant be made to the Minister and Church or Chapel Warden or Wardens of the Church or Chapel of such District, to hold to them and their Successors in Office; and such Grant shall enure to vest the Land, subject to the Conditions contained in the Deed of Conveyance, in such Minister and the Church or Chapel Warden or Wardens for the Time being.

¹ The exact wording of this Clause should be carefully followed. The Clause does not authorise a Grant to a Corporation Sole together with a Corporation Aggregate, and therefore a Corporation Aggregate should not be joined with a Corporation Sole, such as a Bishop or Parson, as Grantee. Now by the Bodies Corporate (Joint Tenancy) Act, 1899, a body corporate is capable of acquiring and holding any real or personal property in joint tenancy as if it were an individual.

² It is provided by the School Sites Act, 1844, §4 (*post*, p. 550), that the Overseers may be omitted and Grants may be made to the Minister and Churchwardens of any Parish, such Minister being the Rector, Vicar or Perpetual Curate thereof, whether endowed or not.

Estates now vested in Trustees for the Purposes of Education may be conveyed to the Minister and Churchwardens.

8. And whereas Schools for the Education of the Poor in the Principles of the Established Church, or in religious and useful Knowledge, and Residences for the Masters or Mistresses of such Schools, have been heretofore erected, and

are vested in Trustees not having a Corporate Character; be it therefore enacted, That it shall be lawful for the Trustees for the Time being of such last-mentioned Schools and Residences, not being subject to the Provisions of the Act passed in the last Session of Parliament, intituled An Act for improving the Conditions and extending the Benefits of Grammar Schools, to convey or assign the same, and all their Estate and Interest therein, to such Ministers and Churchwardens and Overseers of the Poor of the Parish within which the same are respectively situate, and their Successors as aforesaid, or, being situate within an Ecclesiastical District not being a Parish as herein-after defined, then to the Minister and Church or Chapel Wardens of the Church or Chapel of such District, and their Successors, in whom the same shall thereafter remain vested accordingly, but subject to and under the existing Trusts and Provisions respectively affecting the same.

Any number of Sites may be granted for separate Schools.

9. And be it enacted, That any Person or Persons or Corporation may grant any Number of Sites for distinct and separate Schools, and Residences for the Master or Mistress thereof, although the aggregate Quantity of Land thereby granted by such Person or Persons or Corporation shall exceed the Extent of One Acre; provided that the Site of each School and Residence do not exceed that Extent: Provided also, that not more than One such Site shall be in the same Parish.¹

¹ By 12 & 13 Vict. c. 49, §3, it is declared that any person may grant any number of sites in the same parish, provided the aggregate quantity does not exceed one acre. See p. 552.

In the case of any parish which is divided into two or more ecclesiastical districts the word parish in this section is to be construed to signify each such ecclesiastical district (14 & 15 Vict. c. 24; see p. 554).

Form of Grants, etc.

10. And be it enacted, That all Grants, Conveyances, and Assurances of any Site for a School, or the Residence of a Schoolmaster or Schoolmistress, under the Provisions of this Act, in respect of any Land, Messuages, or Buildings, may be made according to the Form following, or as near thereto as the Circumstances of the Case will admit; (that is to say):

‘I [or We, or the Corporate Title of a Corporation], under the Authority of an Act passed in the Year of the Reign of Her Majesty Queen Victoria, intituled An Act for affording further Facilities for the Conveyance and Endowment of Sites for Schools, do hereby freely and voluntarily, and without any valuable Consideration, [or do, in consideration of the Sum of to me or us or the said paid,] grant, [alienate,] and convey to all [Description of the Premises], and all [my or our or the Right, Title, and Interest of the] to and in the same and every Part thereof, to hold unto and to the Use of the said and his or their [Heirs, or Executors, or Administrators, or Successors,] for the Purposes of the said Act, and to be applied as a Site for a School for poor Persons of and in the Parish of and for the Residence of the Schoolmaster [or Schoolmistress] of the said School [or for other Purposes of the said School], and for no other Purpose whatever; such School to be under the Management and Control of [set forth the Mode in which and the Persons by whom the School is to be managed, directed, and inspected]. [In case the School be conveyed to Trustees, a Clause providing for the Renewal of the Trustees, and in cases where the Land is purchased, exchanged, or demised, usual Covenants or Obligations for Title, may be added.] In witness

‘ whereof the conveying and other Parties have hereunto set their Hands and Seals,
 ‘ this Day of
 ‘ Signed, sealed, and delivered by the said in the Presence
 ‘ of of ’

And no Bargain and Sale or Livery of Seisin shall be requisite in any Conveyance intended to take effect under the Provisions of this Act, nor more than One Witness to the Execution by each Party; and instead of such Attestation such Conveyance of any Lands or Heritages in Scotland shall be executed with a testing Clause, according to the Law and Practice of Scotland; and, being recorded within Sixty Days of the Date thereof in the general Register of Seisins or particular Register for the County or *Stewartry* in which the Lands or Heritages lie, shall, without actual Seisin, be valid and effectual in Law to all Intents and Purposes, and shall be a complete Bar to all other Rights, Titles, Trusts, Interests, and Incumbrances to, in, or upon the Lands or Heritages so conveyed.¹

¹ It will be seen that the use of this form is permissive, the words of the section being ‘ may be made,’ but having regard to the force given to the words of it (*see* note to §2, p. 537), it is advisable to follow the Form as closely as possible. As to enrolment, *see* note to §16, *post*, p. 545. As to such a grant being a ‘trust deed’ under the Education Act, 1902, *see* §24 (5).

Application of Purchase Money for Land sold by any Ecclesiastical Corporation Sole.

11. And be it enacted, That where any Land shall be sold by any Ecclesiastical Corporation Sole for the Purposes of this Act, and the Purchase Money to be paid shall not exceed the Sum of Twenty Pounds, the same may be retained by the Party conveying, for his own Benefit; but when it shall exceed the Sum of Twenty Pounds it shall be applied for the Benefit of the said Corporation, in such Manner as the Bishop in whose Diocese such Land shall be situated shall, by Writing under His Hand, to be registered in the Registry of his Diocese, direct and appoint; but no Person purchasing such Land for the Purpose aforesaid shall be required to see to the due application of any such Purchase Money.

Application of Purchase Money for Lands sold in Scotland.

12. And be it enacted, That the Price of any Lands or Heritages to be sold for the Purposes of this Act by any Heir of Entail or other incapacitated Person or Persons in *Scotland* shall be applied and invested in such and the like Manner as is directed in relation to any Moneys awarded to be paid for Lands or Heritages belonging to Heirs of Entail or incapacitated Persons under an Act passed in the First and Second Years of the Reign of His late Majesty King William the Fourth, intituled An Act for amending and making more effectual the Laws concerning Turnpike Roads in Scotland.

Ecclesiastical Corporations to procure a Certificate as to the Extent of the Land conveyed. Form of Certificate.

13. And be it enacted, That when any Ecclesiastical Corporation Sole below the Dignity of a Bishop shall grant any Land belonging to him in right of his Corporation for the Purposes of this Act, he shall procure a Certificate, under the Hands of Three beneficed Clergymen of the Diocese within which the Land

to be conveyed shall be situate, as to the Extent of the Land so conveyed, to be endorsed on the said Deed ; which Certificate shall be in the Form following ; (that is to say) :

‘ We, A.B. Clerk, Rector of the Parish of _____ C.D. Clerk,
 ‘ Rector of the Parish of _____ and E.F. Clerk, Vicar of the Parish of _____
 ‘ _____ being Three beneficed Clergymen of the Diocese of _____
 ‘ _____ do hereby certify, That _____ Clerk,
 ‘ Rector of the Parish of _____ within the said Diocese of _____
 ‘ being about to convey a Portion of Land situate in the said Parish of _____
 ‘ for the Purposes of a School, under the Powers of the Act passed in the _____
 ‘ _____ Year of the Reign of Her Majesty Queen Victoria, intituled An Act
 ‘ for affording further Facilities for the Conveyance and Endowment of Sites for
 ‘ Schools, we have at his Request inspected and examined the Portion of Land, and
 ‘ have ascertained that the same is situate at [here describe the Situation], and that
 ‘ the Extent thereof does not exceed _____ Acre . As witness our Hands,
 ‘ this _____ Day of _____ at _____ in the County or
 ‘ and Diocese of _____
 ‘ Witness _____ of _____ .’

And until such Certificate shall have been signed no such Conveyance shall have any Force or Validity.

Trustees empowered to sell or exchange Lands or Buildings.

14. And be it enacted, That when any Land or Building shall have been or shall be given or acquired under the Provisions of the said first-recited Act or this Act, or shall be held in Trust for the Purposes aforesaid, and it shall be deemed advisable to sell or exchange the same for any other more convenient or eligible Site, it shall be lawful for the Trustees in whom the legal Estate in the said Land or Building shall be vested, by the Direction or with the Consent of the Managers and Directors of the said School, if any such there be, to sell or exchange the said Land or Building, or Part thereof, for other Land or Building suitable to the purposes of their Trust,¹ and to receive on any Exchange any Sum of Money by way of effecting an Equality of Exchange, and to apply the Money arising from such Sale or given on such Exchange in the Purchase of another Site, or in the Improvement of other Premises used or to be used for the Purposes of such Trust ; provided that where the Land shall have been given by any Ecclesiastical Corporation Sole the Consent of the Bishop of the Diocese shall be required to be given to such Sale or Exchange before the same shall take place : Provided also, that where a Portion of any Parliamentary Grant² shall have been or shall be applied towards the Erection of any School, no Sale or Exchange thereof shall take place without the Consent of the Secretary of State for the Home Department for the Time being.

¹ Where a site had been validly conveyed to the Vicar and Churchwardens under the provisions of this Act, and a Schoolhouse erected thereon had been pulled down and re-erected on another site on the same estate, and a complete performance of the exchange had been carried out and acquiesced in for a long series of years by both parties, and considerable sums had been spent by the Vicar and Churchwardens on the new School, Mr. Justice Bruce held that the exchange was on equitable principles valid although it had not been made by deed as required by 8 & 9 Vict. c. 106, §2. (Brown v. Patterson, *Times*, 22nd February 1899.)

² See also the School Grants Act, 1855 (p. 537).

All Conveyances of Land under 6 & 7 W. 4. c. 70 to be deemed effectual for vesting the Fee Simple.

15. And whereas in many Cases Conveyances of Land have been made, purporting to be made in pursuance of the Powers of the said first-recited Act, to the Minister or Incumbent and the Churchwardens or Chapelwardens of certain Parishes or Places, as and for Sites of Schools or Houses of Residence for the Schoolmasters; and doubts have been entertained whether such Conveyances are valid and effectual for the Purposes of conveying the Fee Simple, in consequence of the said Statute not containing any Words of Limitation to the Successors of such Persons; be it therefore enacted, That all Conveyances whereby any Land shall have been conveyed to the Minister or Incumbent and the Churchwardens or Chapelwardens of any Parish or Place for the Time being, whether made to them as such Minister or Incumbent and Churchwardens or Chapelwardens, or to them and their Successors, shall be deemed and taken to have been and shall be valid and effectual for the Purpose of vesting the Fee Simple, or such other Estate as hath been proposed to be conveyed, in the Persons who from Time to Time shall be the Minister or Incumbent and the Churchwardens or Chapelwardens of such Place, such Minister being the Rector, Vicar, or Perpetual Curate, whether endowed or not, of the said Parish or Place.

Certain Conveyances of Lands, etc., for Purposes of Education not enrolled as required by the 9 G. 2. c. 36 rendered valid if enrolled within twelve Months from the passing of this Act. Proviso for Deeds avoided in any Suit.

16. And whereas certain Lands or Buildings have been conveyed for valuable Consideration, upon Trust for the purposes of the Education of the Poor, and through Inadvertence or other Causes the Deeds or Assurances conveying the same have not been enrolled in Chancery as required by the Act passed in the Ninth Year of the Reign of His late Majesty King George the Second, intituled An Act to restrain the Disposition of Lands whereby the same become unalienable, and by the said herein-before first-recited Act; be it therefore enacted, That notwithstanding the said Provisions all such Conveyances shall be and remain valid for the Space of Twelve Calendar Months next ensuing the passing of this Act, and if enrolled in Chancery before the Expiration of that Time shall be and remain valid hereafter as if duly enrolled within the Time required by the Provisions of the said Acts: Provided nevertheless, that no Effect shall be given hereby to any Deed or other Assurance heretofore made, so far as the same has been already avoided by any Suit at Law or in Equity, or by any other legal or equitable Means whatsoever, or to affect or prejudice any Suit at Law or in Equity actually commenced for avoiding any such Deed or other Assurance, or for defeating the charitable Uses in Trust or for the Benefit of which such Deed or other Assurance may have been made.¹

¹ This section is repealed by the Statute Law Revision Act, 1874.

² The Mortmain Act, 1888, §4 (1) and (9), provides that subject to the savings and exceptions contained in that Act every assurance of land for the benefit of any charitable uses shall be enrolled (*see* p. 526). Prior to that Act assurances under the School Sites Acts of land which was not already applied to charitable uses were enrolled in the Central Office of the Supreme Court, and this course should still be followed where necessary, but *see* now the note to §5 of the Mortmain Act, 1891 (p. 533).

No Schoolmaster to acquire a Life Interest by virtue of his Appointment.

17. And be it enacted, That no Schoolmaster or Schoolmistress to be appointed to any School erected upon Land conveyed under the Powers of this Act shall be deemed to have acquired an Interest for Life by virtue of such Appointment, but shall, in default of any specific Engagement, hold his Office at the Discretion of the Trustees of the said School.¹

¹ This must now be read in connection with §7 (1) (a) of the Education Act, 1902 (see p. 48), which enacts that the managers of any Public Elementary School shall carry out any directions of the local education authority with respect to the dismissal of any teacher on educational grounds. Where the schoolmistress of a public elementary school established under a deed of trust was dismissed by the Committee of Management by whom she was appointed, instead of by the trustees, she was held to have no right to an injunction to restrain the committee from dismissing her although the committee was irregularly constituted and notwithstanding the terms of the deed (*Pottle v. Sharpe*, 75 L.T. 265), but an injunction was granted in another case where the committee which dismissed the plaintiff was irregular, in that one member had not been summoned and strangers were present, to restrain the committee from carrying out the dismissal until a meeting had been properly held. (*Lane v. Norman*, W.N. 1891, p. 202, 66 L. T. 83.)

Justices of the Peace or Sheriffs to give Possession of Schoolrooms, etc., in case of the Refusal of the Master.

18. And for the more speedy and effectual Recovery of the Possession of any Premises belonging to any School which the Master or Mistress who shall have been dismissed, or any Person who shall have ceased to be Master or Mistress, shall hold over after his or her Dismissal or ceasing to be Master or Mistress, be it enacted, That when any Master or Mistress, not being the Master or Mistress of any Grammar School within the Provision of the Act of the last Session of Parliament herein-after mentioned, holding any Schoolroom, Schoolhouse, or any other House, Land, or Tenement, by virtue of his or her Office, shall have been dismissed or removed, or shall have ceased to be Master or Mistress, and shall neglect or refuse to quit and deliver up Possession of the Premises within the Space of Three Calendar Months after such Dismissal or ceasing to be Master or Mistress, not having any lawful Authority for retaining such Possession, it shall be lawful for the Justices of the Peace acting for the District or Division in which such Premises are situated, in Petty Sessions assembled, or any Two of them, or for the Sheriff of the County in Scotland, and they are hereby required, on the Complaint of the Trustees or Managers of the said School, or some one of them,¹ on Proof of such Master or Mistress having been dismissed or removed, or having ceased to be such Master or Mistress, to issue a Warrant under their Hands and Seals, or under the Hand of such Sheriff in Scotland, to some One or more of the Constables and Peace Officers of the said District or Division, or of the Sheriff's Officers in Scotland, commanding him or them, within a Period to be therein named, not less than Ten nor more than Twenty-one clear Days from the Date of such Warrant, to enter into the Premises, and give Possession of the same to the said Trustees or Managers or their Agents, such Entry and Possession being given in England in such manner as Justices of the Peace are empowered to give Possession of any Premises to any Landlord or his Agent under an Act passed in the Second Year of the Reign of Her present Majesty, intituled An Act to facilitate the Recovery of Possession of Tenements after due Determination of the Tenancy.

¹ This section is not limited to schools conveyed under this Act, and appears to be

available both in the case of dismissal by the managers and in the case of dismissal by the Local Education Authority. In the latter case it will apply not only in a school provided by the Local Education Authority (*see* Elementary Education Act, 1870, §86), but also in a school not so provided when the authority is carrying out a direction to dismiss given by itself and not carried out by the Managers (*see* Education Act, 1902, §7 (1) (a) p. 48), it being apparently possible under this section for the complaint to be made by one of the managers appointed by the Local Education Authority.

Powers granted to the Commissioners under 3 & 4 Vict. c. 60, for applying Land to Ecclesiastical Purposes extended to Land granted by way of Gift.

19. And whereas by an Act passed in the last Session of Parliament, intituled *An Act to further amend the Church Building Acts*, Provision was made to enable Her Majesty's Commissioners for building new Churches to apply Land in any Parish granted to them for any of the Purposes of the Church Building Acts to any other Ecclesiastical Purposes, or for the Purpose of any parochial or charitable School, or any other charitable or public Purpose relating to any such Parish or Place: And whereas through an accidental Omission such Provision does not extend to Cases of Land granted by way of Gift; be it therefore enacted, That such Power so given to the said Commissioners, so far as it is applicable to the Purposes of any School, shall extend to every Case of Land granted, given, or conveyed to them under the Authority of the several Acts in the said Act recited.

Definition of the Term 'Parish.'

20. And be it enacted, That the Term 'Parish' in this Act shall be taken to signify every Place separately maintaining its own Poor, and having its own Overseers of the Poor and Church or Chapel Wardens.¹

¹ See 14 & 15 Vict. c. 24, *post*, p. 554, and *cf.* §3 of the Elementary Education Act, 1870, and note 4 thereon on p. 196.

Act not to extend to Ireland.

21. This Act shall not extend to Ireland.

Act not to affect 1 & 2 Vict. c. 87, or 3 & 4 Vict. c. 48.

22. And be it enacted, that nothing herein contained shall repeal or affect an Act passed in the Second Year of the Reign of Her present Majesty, intituled *An Act to facilitate the Foundation and Endowment of additional Schools in Scotland*, or another Act passed in the last Session of Parliament, intituled *An Act to enable Proprietors of Entailed Estates in Scotland to feu or lease on long Leases Portions of the same for the building of Churches and Schools, and for Dwelling Houses and Gardens for the Ministers and Masters thereof.*

THE SCHOOL SITES ACT, 1844.

7 & 8 Victoria, Chap. 37.

AN ACT to secure the Terms on which Grants are made by Her Majesty out of the Parliamentary Grant for the Education of the Poor; and to explain the Act of the Fifth Year of the Reign of Her present Majesty, for the Conveyance of Sites for Schools. [19th July 1844.]

WHEREAS during several Years last past divers Sums of Money have been granted by Parliament to Her Majesty, to be applied for the Purpose of promoting the Education of the Poor in Great Britain, and similar Grants may hereafter be made: And whereas Her Majesty hath appointed a Committee of Her Council to receive Applications for Assistance from such Grants, and to report thereon, and to advise Her as to the Terms and Conditions upon which such Assistance shall be granted, and many such Reports have been made, and approved of by Her Majesty, and the Terms and Conditions having been assented to by the Applicants, Grants have been made out of the said Fund: And whereas in some Cases, by reason of the Deeds of Endowment of Schools in respect of which such Applications have been received having been executed before the Grant has been made, such Terms and Conditions have not and cannot be made permanently binding on the Estate; but the Parties promoting the said Schools have entered into personal Obligations or Assurances for the due Performance of such Terms and Conditions, though deriving no beneficial Interest from the charitable Institution which they have established; and it is desirable to provide permanent Security to Her Majesty and Her Successors for the due Fulfilment of the Terms and Conditions, and to relieve the Parties from the personal Liabilities so entered into for the Purpose aforesaid:

The Terms and Conditions upon which Parliamentary Aid has been given towards the building of Schools secured upon this Site.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That where any Grant hath been made or shall hereafter be made out of any Sums of Money heretofore granted or hereafter to be granted by Parliament for the Purposes of Education in Great Britain, under the Advice of any Committee of the Council on Education for the Time being, upon Terms and

Conditions to provide for the Inspection of the School by an Inspector appointed or to be appointed by Her Majesty and Her Successors, which shall not be inserted in the Conveyance of the Site of the School, or in the Deed declaring the Trusts thereof, and such Grant shall be made in aid of the Purchase of the Site, or of the Erection, Enlargement, or Repair of the School, or of the Residence of the Master or Mistress thereof, or of the furnishing of the School, such Terms and Conditions shall be binding and obligatory upon the Trustees or Managers of the said School or other the Premises for the Time being, in like Manner and to the like Effect as though they had been inserted in the Conveyance of the Site of the said School, or in the Declaration of the Trusts thereof; and henceforth all personal Obligations entered into for the Purpose of securing the Fulfilment of such Terms and Conditions shall, so far as they relate thereto, but no further, be null and void: Provided nevertheless, that such Terms and Conditions shall have been or shall be set forth in some Document in Writing, signed by the Trustees of the said School or the major part of them, or by the Party or Parties conveying the Site, in the Case where there shall have been a voluntary Gift thereof.

The Terms upon which Aid shall be granted to Trustees of Ancient Endowed Schools.

2. And whereas there are many Endowments for the Purpose of Education of the Poor in Great Britain of ancient Date, the Schools whereon have become dilapidated, and the Funds of such Endowment being insufficient for the Restoration thereof, Application is made by the Trustees, or by the Persons acting in the Discharge of the Trusts thereof, for Aid out of the said Parliamentary Grant, but the same hath been declined, because such Applicants could not impose upon their lawful Successors in the said Trust the Conditions which the said Committee would have advised Her Majesty to require to secure the due Inspection of such Schools, and it is expedient to enable them to do so; be it therefore enacted, That where the major Part of the Trustees of any endowed School for the Education of the Poor duly appointed under the Terms of the Deed of Endowment, or, when such Deed cannot be found or cannot be acted upon, of the Persons who shall be in the Possession of the Endowment, and shall be acting in the Execution of the Trusts or the reputed Trusts thereof, shall, and in Cases where there shall be a Visitor of such School with the Consent of such Visitor in Writing, apply for Aid out of such Parliamentary Grant to enable them to rebuild, repair, or enlarge the School belonging to such Endowment, or the Residence of the Master or Mistress thereof, or to furnish such School, and shall in Writing assent to the said School being open to Inspection on behalf of Her Majesty and Her Successors, if the said Committee shall deem fit to advise that any such Grant shall be made, it shall immediately after the making of such Grant, and thenceforth from Time to Time, be lawful for any Inspector of Schools appointed by Her Majesty and Her Successors, in conformity with the Terms contained in the Writing testifying such Consent as aforesaid, to enter the said School at all reasonable Hours in the Day for the Purpose of inspecting and Examining the State and Condition of the School and the Scholars thereat, and of making such Report thereon, as he shall deem fit.

Death of Donor within Twelve Calendar Months not to avoid Grant.

3. And whereas by an Act passed in the Fifth Year of the Reign of Her present Majesty, intituled An Act to afford further Facilities for the Conveyance

and Endowment of Sites for Schools, it is enacted, that any Person, being seized in Fee Simple, Fee Tail, or for Life of and in any Manor, or Lands of Freehold, Copyhold, or Customary Tenure, may grant, convey, or enfranchise, and subject to the Provisions therein mentioned, any Quantity not exceeding One Acre of Land as a Site for a School or otherwise, as therein likewise specified; and it is desirable to prevent any such Grant, being of so limited an Interest, from being defeated by the Death of the Grantor; be it enacted, That where any Deed shall have been or shall be executed under the Powers and for the Purposes contained in the said Act, without any valuable Consideration, the same shall be and continue valid, if otherwise lawful, although the Donor or Grantor shall die within Twelve Calendar Months from the Execution thereof.

Site may be granted to the Minister and Churchwardens.

4. And whereas it was provided by the said Act that Grants of Land or Buildings, or any Interest therein, for the Purposes of the Education of poor Persons, might be made to the Minister of any Parish, being a Corporation, and the Churchwardens or Chapelwardens and Overseers of the Poor and their Successors, and it is sometimes found inexpedient or impracticable to introduce the Overseers as Parties to the legal Estate; be it therefore enacted, That such Grants may be made to the Minister and Churchwardens of any Parish, such Minister being the Rector, Vicar, or Perpetual Curate thereof, whether endowed or not, to hold to them and their Successors, subject to the Provisions contained in the Deed of Conveyance thereof for the Management, Direction, and Inspection of the School and Premises.

Rector, Vicar, or Perpetual Curate may grant to the Minister and Churchwardens, or to the Minister, Churchwardens, and Overseers of his Parish.

5. And be it enacted, That if the Rector, Vicar, or Perpetual Curate of any Parish shall be desirous of making a Grant of any Land for the Purposes and under the Powers of the said Act, being part of the Glebe or other Possessions of his Benefice, and shall, with the Consent of the Patron of the said Benefice, and of the Bishop of the Diocese within which the same shall be situated, grant the same to the Minister and Church or Chapel Wardens, or to the Minister, Church or Chapel Wardens, and Overseers of the Poor of the said Parish, such Grant shall be valid, and shall thenceforth enure for the Purposes of the Trust set forth therein, if otherwise lawful, notwithstanding such Minister is the Party making the Grant.

THE SCHOOL SITES ACT, 1849.

12 & 13 Victoria, Chap. 49.

AN ACT to extend and explain the Provisions of the Acts for the granting of Sites for Schools. [28th July 1849.]

WHEREAS by an Act passed in the Fifth Year of the Reign of Her Majesty Provisions are made for facilitating the Erection of Schools and Buildings for the Education of Poor Persons, which said Act hath been since explained and extended by an Act of the Eighth year of the Reign of Her Majesty; and it is expedient that further Facilities should be afforded for the Conveyance of Lands for Sites for Schools in Cases where such Lands are comprised with other Lands in Leases, and that some Amendments should also be made in the said Acts :

Where Part only of Land under Lease conveyed, the Rent, and Fine upon Renewal of Lease, may be apportioned.

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That if Part only of any Lands comprised in a Lease for a Term of Years unexpired shall be conveyed or agreed to be conveyed for the Purposes of the said firstly herein-before mentioned Act, the Rent payable in respect of the Lands comprised in such Lease, and any Fine certain or fixed Sum of Money to be paid upon any Renewals thereof, or either of such Payments, may be apportioned between the Part of the said Lands so conveyed or agreed to be conveyed and the Residue thereof; and such Apportionment may be settled by Agreement between the Parties following, that is to say, the Lessor or other the Owner subject to such Lease of the Lands comprised therein, the Lessee or other the Party entitled thereto by virtue of such Lease or any Assignment thereof for the Residue of the Term thereby created, and the Party to whom such Conveyance as aforesaid for the Purposes of the said firstly herein-before mentioned Act is made or agreed to be made; and when such Apportionment shall so be made it shall be binding on all Under-lessees and other Persons and Corporations whatsoever, whether Parties to the said Agreement or not.

Liabilities of Tenants, and Remedies of Landlords, as to the Lands not conveyed.

2. And be it enacted, That in case of any such Apportionment as aforesaid, and after the Lands so conveyed or agreed to be conveyed as aforesaid shall have been conveyed, the Lessee, and all Parties entitled under him to the

Lands comprised in the Lease not included in such Conveyance, shall, as to all future accruing Rent, and of all future Fines certain or fixed Sums of Money, to be paid upon Renewals, be liable only to so much of the Rent and of such Fines or Sums of Money as shall be apportioned in respect of such last-mentioned Lands; and the Party entitled to the Rent reserved by the Lease shall have all the same Rights and Remedies for the Recovery of such portion of the Rent as last aforesaid as previously to such Apportionment he had for the Recovery of the whole Rent reserved by such Lease; and all the Covenants, Conditions, and Agreements of such Lease, except as to the Amount of Rent to be paid, and of Fines or Sums of Money to be paid upon Renewals, in case of any Apportionment of the same respectively, shall remain in force with regard to that Part of the Land comprised in the Lease which shall not be so conveyed as aforesaid, in the same Manner as they would have done in case such Part only of the Land had been included in the Lease.

The same Person may grant several Sites for Schools in the same Parish if the whole Extent do not exceed certain Limits.

3. And whereas by the said first-recited Act Power is given to any Person or Corporation to grant any Number of Sites for distinct and separate Schools; but after providing that the Site of each School and Residence do not exceed One Acre, it is also provided that not more than One such Site shall be in the same Parish; and Doubts have been entertained as to the Meaning of this last-recited Proviso: Be it therefore declared and enacted, That nothing in the said Act contained shall prevent any Person or Corporation from granting any Number of Sites for separate and distinct Schools in the same Parish, provided the aggregate Quantity of Land granted by such Person in the same Parish shall not exceed the Extent of One Acre.¹

¹ See §§14 and 15 Vict. c. 24, *post*, p. 554, as to divided parishes.

Grants of Land for Sites of Schools by Owners or Tenants in Tail to be valid, although Grantor die within Twelve months.

4. And whereas it would be expedient that the absolute Owners of Land and Tenants in Tail in possession should have the Power of granting Land to a limited Extent for the Purpose of erecting sites for Schools to be applied and used in and for the Education and Instruction of Persons intended to be Masters or Mistresses of Elementary Schools for poor Persons, without any Risk of such Grant being defeated by the Death of the Grantor: Be it therefore enacted, That it shall be lawful for all persons, being such absolute Owners or Tenants in Tail in possession as aforesaid, to grant, convey, or enfranchise, by way of Gift, Sale, or Exchange, any Quantity of Land, not exceeding in the whole Five Acres, to any Corporation Sole or Aggregate, or to several Corporations Sole, or to any Trustees whatsoever, to be held, applied, and used by such Corporation or Corporations or Trustees in and for the Erection of School Buildings and Premises thereon for the Purpose of educating and instructing, and of boarding during the Time of such Education and Instruction, Persons intended to be Masters or Mistresses of Elementary Schools for poor Persons, and for the Residence of the Principal or Master or Mistress and other Officers of such Institution; and such Gift, Sale, or Exchange shall be and continue valid, if otherwise lawful, although the Donor or Grantor shall die within Twelve Calendar Months from the Execution thereof: Provided always, that it shall be lawful for the Trustees of such School Buildings and Premises to allow

the same to be applied and used, concurrently with the Education and Instruction of such Masters or Mistresses, for the Purpose of boarding other Persons, and of educating and instructing the said Persons in religious and useful Knowledge.

The Owners of Land empowered to vest any Quantity of Land for Purposes of these Acts in Corporations.

5. And whereas the absolute Owners of Land may grant, subject to the Regulations and Provisions prescribed by the Statutes in such Behalf, any Quantity of such Land to Trustees, to be held upon charitable Purposes; and it would be beneficial that they should be authorised to exercise such Power in respect of Lands granted for the Sites or for the Endowment of the last-mentioned Schools, or of Schools for poor Persons, by vesting the same so as to secure it permanently for the Purpose of the Trust, without the Necessity of subsequent renewals of the Deeds of Trust: Be it therefore enacted, That where any such Person shall be lawfully entitled to convey an Estate in Lands to Trustees, to hold the same upon any charitable Use, and shall be desirous of conveying the same for the Purposes of the Acts herein-before referred to, or this Act, or for the Endowment of such Schools, such Person may grant and convey the same to any Corporation or Corporations as aforesaid, to be held in trust for such Purposes, whatever may be the Quantity of Land or Extent of the Estate so to be granted and conveyed.

Mode of Conveying the Lord's Interest and that of the Copyholder in Copyhold Land.

6. And be it enacted, That where Land of Copyhold or Customary Tenure shall have been or shall be granted for the purposes of the said Acts, the Conveyance of the same by any Deed wherein the Copyholder shall grant and convey his Interest, and the Lord shall also grant his Interest, shall be deemed to be valid and sufficient to vest the Freehold Interest in the Grantee or Grantees thereof without any Surrender or Admittance or Enrolment in the Lord's Court.

Interpretation Clause.

7. And be it enacted, That, except in Cases where there shall be some thing in the Subject or Context repugnant to such Construction, Words occurring in this Act and the above-recited Acts importing the Singular Number shall include the Plural Number, and Words importing the Plural Number shall include the Singular Number; and Words importing the Masculine Gender only shall include Females; and the Word 'Land' shall include Messuages, Houses, Lands, Tenements, Hereditaments, and Heritages of every Tenure; and the Word 'Lease' shall include an Under-lease, Agreement for a Lease, and Missive of Lease; and the Word 'Owner' shall include any Person or Corporation enabled under the Provisions of the said firstly herein-before mentioned Act to convey Lands for the Purposes thereof.

THE SCHOOL SITES ACT, 1851.

14 & 15 Victoria, Chap. 24.

AN ACT to amend the Acts for the granting of Sites for
Schools. [24th July 1851.]

WHEREAS by the Statute Fourth and Fifth Victoria, Chapter Thirty-eight, Power is given to divers Persons therein mentioned to grant, convey, and enfranchise a certain Portion of Land for the Purpose of a Site for a School for the Education of poor Persons, or for the Residence of a Schoolmaster or Schoolmistress, or otherwise for the Education of poor Persons in religious and useful Knowledge, and Provisions are contained therein for facilitating the Conveyance of such Sites and perpetuating the Trusts of the Deeds: And whereas the Persons therein mentioned having been authorised to grant any Number of Sites for distinct and separate Schools, and Residences for the Master or Mistress thereof, it is provided that the site of each School and Residence should not exceed the Extent of One Acre, and it is also provided that not more than One such Site should be in the same Parish: And whereas by the Twelfth and Thirteenth Victoria, Chapter Forty-nine, it is declared and enacted, that nothing in the last-recited Act contained should prevent any Person or Corporation from granting any Number of Sites for separate and distinct Schools in the same Parish, provided the aggregate Quantity of Land granted by such Person in the same Parish should not exceed the Extent of One Acre: And whereas by reason of the great Extent of some Parishes, wherein the Population is very large, this Limitation is found to be productive of Inconvenience, and to prevent the Extension of the Education of the Poor; and it is desirable to make further Provision in this Behalf: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

*The Word Parish in the 4 & 5 Vict. c. 38, s. 9, and 12 & 13 Vict. c. 49, s. 3,
to signify an Ecclesiastical District in any divided Parish.*

1. The Word Parish in the Sections of the Statutes herein referred to shall, in the Case of any Parish which has heretofore been or shall hereafter be divided by lawful Authority into Two or more Ecclesiastical Districts, whether confined to such Parish, or comprising also any Part of another Parish, be construed with reference to such Parish to signify each such Ecclesiastical District.

Incorporation of this Act with recited Acts.

2. This Act shall be construed as and be deemed to be a Part of the said recited Acts, except so far as it amends the same.

THE SCHOOL SITES ACT, 1852.

15 & 16 Victoria, Chap. 49.

AN ACT to extend the Provisions of the several Acts passed for the Conveyance of Sites for Schools.

[30th June 1852.]

WHEREAS an Act was passed in the Session of Parliament held in the Fourth and Fifth Years of the Reign of Her present Majesty, intituled An Act to afford further Facilities for the Conveyance and Endowment of Sites for Schools: And whereas an Act was passed in the Session of Parliament held in the Seventh and Eighth Years of the Reign of Her present Majesty, intituled An Act to secure the Terms on which Grants are made by Her Majesty out of the Parliamentary Grant for the Education of the Poor, and to explain the Act of the Fifth year of the Reign of Her present Majesty, for the Conveyance of Sites for Schools: And whereas an Act was passed in the Session of Parliament held in the Twelfth and Thirteenth Years of the Reign of Her present Majesty, intituled An Act to extend and explain the Provisions of the Acts for the granting of Sites for Schools: And whereas an Act was passed in the Session of Parliament held in the Thirteenth and Fourteenth Years of the Reign of Her present Majesty, intituled An Act to render more simple and effectual the Title by which Congregations or Societies for purposes of Religious Worship or Education in England and Ireland hold Property for such Purposes: And whereas an Act was passed in the Session of Parliament held in the Fourteenth and Fifteenth Years of the Reign of Her present Majesty, intituled an Act to amend the Acts for the granting of Sites for Schools: And whereas it is expedient to encourage the building and promoting of Schools or Colleges for the Sons of Yeomen and others, and to extend the Provisions of the said recited Acts to the Cases herein-after specified: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

Provisions of recited Acts as to Conveyances and Endowments of Sites for Schools to apply to Schools herein specified.

That from and after the passing of this Act all the Provisions contained in the said recited Acts or any of them in relation to the Conveyance and Endowment of Sites for such Schools as are contemplated by the Provisions of the said Acts respectively, shall apply to and be construed to be applicable to the Cases of such Schools as are herein-after specified; (that is to say,) Schools or

Colleges for the religious or educational Training of the Sons of Yeomen or Tradesmen or others, or for the theological Training of Candidates for Holy Orders, which are erected or maintained in part by charitable Aid, and which in part are self-supporting, in the same or the like Manner as if such Schools or Colleges as last aforesaid had been expressly specified in the said Act of the Fourth and Fifth Years of Her present Majesty and the said subsequent Acts, and the same or the like Powers had been thereby given for or in relation to the Conveyance and Endowments of Sites for such Schools or Colleges, and for the Residences of Schoolmasters, or otherwise in connection therewith, as are by the said Acts given for or in reference to the Conveyance and Endowment of Sites for Schools falling within the Provisions of those Acts: Provided always, that no Ecclesiastical Corporation, sole or aggregate, shall be authorised to grant any Site under this Act, except for Schools or Colleges which shall be conducted upon the Principles of and be in Union with the Church of England and Ireland as by Law established; and that no Ecclesiastical Corporation, aggregate or sole, shall grant, by way of Gift, and without a valuable Consideration, for any of the Purposes of this Act, any greater Quantity of Land in the whole than Two Acres; and that no other Person or Persons or Corporation not coming within the Class or Description of Persons empowered by the Second Section of the said Act of the Fourth and Fifth Years of the Reign of Her present Majesty to convey Land for Sites as therein mentioned, shall grant, by way of Sale for a valuable Consideration, for any of the Purposes of this Act, any greater Quantity of Land in the whole than Two Acres, or shall grant any Land whatever for any of the Purposes of this Act by way of Gift and without a valuable Consideration, anything in the said recited Acts or herein-before contained to the contrary notwithstanding.

SCHOOL GRANTS ACT, 1855.

18 & 19 Victoria, Chap. 131.

AN ACT to render more secure the Conditions upon which Money is advanced out of the Parliamentary Grant for the Purposes of Education. [14th August 1855.]

WHEREAS it is expedient that greater Security should be afforded for the due Application of Money advanced in certain Cases to the Trustees or Managers of Schools by the Lords Commissioners of the Treasury out of the Parliamentary Grant for the Promotion of Education in Great Britain: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows :

Sale, etc., of Premises in respect of which Grant of Money has been made not to be valid without Consent of Secretary of State, etc.

Where any Grant hath been made or shall hereafter be made out of any Sums of Money heretofore granted or hereafter to be granted by Parliament for the Purposes of Education in Great Britain, under the Advice of any Committee of the Council on Education for the Time being, to the Trustees, Managers, or other Persons applying on behalf of any School, with the Consent of the Trustees or Persons holding the legal Estate thereof, for or towards the Purchase of the Site or the Erection, Enlargement, or Repair of the School, or the Residence of the Master or Mistress, or the furnishing such School or Residence, no Sale, Exchange, or Mortgage of the Premises in respect of which such Grant hath been or may hereafter be made in exercise of any Power contained in the Conveyance or other Deed relating thereto, or under any other legal Authority, shall be valid unless either the Consent of the Secretary of State for the Home Department for the Time being in Writing under his Hand be given to the same, or the Amount of the Grant which shall have been made as aforesaid shall be repaid to the Lords Commissioners of the Treasury for the Time being; and whenever any Grant as aforesaid shall be hereafter made, a Memorandum, to be signed by One of the Lords Commissioners of the Treasury for the Time being, shall be endorsed upon some One of the Title Deeds relating to the School, certifying to the Fact of the Grant having been made upon such Application, and for some such Purpose as aforesaid, and referring to this Act; and in any Case in which any Grant as aforesaid shall have been already made, so soon as such Memorandum shall have been endorsed and signed on any such

Deed, all Bonds, Covenants, or other personal Obligations heretofore given or entered into to prevent the Exercise of any such Power of Sale, Exchange, or Mortgage without such Consent as aforesaid, shall, so far as they relate to such Exercise, but no further, be annulled.

Purchasers not to be affected without Notice.

2. Nothing herein contained shall affect any Purchaser for a valuable Consideration without Notice, nor be deemed to apply to any School in respect of any such Grant heretofore made without any such Bond, Covenant, or other personal Obligations or Conditions as to Sale, Exchange, or Mortgage having been entered into by the Trustees or Persons holding the legal Estate in such Schools and the Committee of Council on Education.

EXTRACTS FROM MINUTES, ETC., CONTAINING THE RULES THAT HAVE BEEN
IN FORCE AT VARIOUS PERIODS FOR THE DISTRIBUTION OF BUILDING GRANTS.

I. By a *Treasury Minute*, dated the 29th August 1888, it was laid down:—

1. That no portion of this sum [£20,000 voted in the last preceding session] be applied to any purpose whatever except for the erection of new school-houses, and that in the definition of a school-house the residence for masters or attendants be not included.¹

2. That no application be entertained unless a sum be raised by private contribution equal at the least to one-half of the total estimated expenditure.

3. That the amount of private subscription be received, expended, and accounted for before any issue of public money for such school be directed.

4. That no application be complied with unless upon the consideration of such a report either from the National School Society or the British and Foreign School Society, as shall satisfy this Board that the case is one deserving of attention, and there is a reasonable expectation that the school may be permanently supported.

5. That the applicants whose cases are favourably entertained be required to bind themselves to submit to any audit of their accounts which this Board may direct, as well as to such periodical reports respecting the state of their schools, and the number of scholars educated, as may be called for.

6. That in considering all applications made to the Board a preference be given to such applications as come from large cities and towns in which the necessity of assisting in the erection of schools is most pressing, and that due inquiries should also be made before any such application be acceded to, whether there may not be charitable funds or public and private endowments, that might render any further grants inexpedient or unnecessary.

II. The Queen in Council, on the 8rd June 1889, approved the following report and recommendations of the newly-appointed Committee of Council on Education:—

The Lords of the Committee recommend that the sum of ten thousand pounds, granted by Parliament in 1885 towards the erection of normal or model schools, be given in equal proportions to the National Society and the British and Foreign School Society. That the remainder of the subsequent grants of the years 1887 and 1888, yet unappropriated, and any grant that may be voted in the present year, be chiefly applied in aid of subscriptions for building, and in particular cases, for the support of schools connected with those societies; but that the rule hitherto adopted of making a grant to those places where the largest proportion is subscribed be not invariably adhered to, should application be made from very poor and populous districts, where subscriptions to a sufficient amount cannot be obtained.

The Committee do not feel themselves precluded from making grants in particular cases which shall appear to them to call for the aid of Government, although the applications may not come from either of the two mentioned societies.

III. A *Minute of the Committee of Council*, dated the 24th September 1889, contained the following regulations:—

8. The right of inspection will be required by the Committee in all cases; inspectors, authorised by Her Majesty in Council, will be appointed from time to time to visit schools to be henceforth aided by public money: the inspectors will not interfere with the religious instruction, or discipline, or management of the school, it being their object to collect facts and information, and to report the result of their inspections to the Committee of Council.

4. Before any application for aid shall be entertained the Committee will require to be satisfied, by reference either to the inspectors or to the National or British and Foreign School Society, or if the school be in Scotland, to some competent authority there:—

(1.) That the case is deserving of assistance.

(2.) That there are no charitable or other funds or endowments which might supersede the necessity of a grant.

(3.) That the site of the school-house has been obtained with a good legal tenure; and that, by conveyance to trustees, it has been duly secured for the education of the children of the poor.

(4.) That it is reasonable to expect that the school will be efficiently and permanently supported.

¹ See Minute of 22nd November 1843, *infra*.

5. The Committee will require that every building on behalf of which an application is entertained shall be of substantial erection, and that in the plans thereof not less than six square feet be provided for each child.¹

6. All recipients of grants will be required to bind themselves to submit to any audit of their building account, and to furnish any reports of their schools which the Committee of Council may require.

7. The Committee will require that the certificate hereto annexed shall be signed by the applicants, and presented to the Committee, before their Lordships will authorise the payment of any grant which may be made to a school.

8. In all ordinary cases the grants will be made in aid of the erection of school-houses (exclusive of residence for master or assistant)² upon the following further conditions:—

(1.) That for every 10s. to be granted by the Committee the means of educating one child (at least) shall be provided.

(2.) That the amount of private subscriptions shall be received, expended, and accounted for before their Lordships will authorise the payment of the grant.

9. In every application for aid to the erection of a school-house in England or Wales it must be stated whether the school is in connection with the National Society or British and Foreign School Society; and if the said school be not in connection with either of these societies, the Committee will not entertain the case, unless some special circumstances be exhibited to induce their Lordships to treat the case as special.

IV. In a *Minute*, dated the 3rd December 1839, it appears that the Committee of Council resolved, with reference to applications for grants to schools not in connection with either of the above-mentioned societies, that the Committee would not entertain the case unless some special circumstances were shown to induce them to treat the case as special, and that in such cases they would require that a full statement as to the kind and suitability and superintendence of the religious instruction proposed to be given, and as to the manner of providing it, should be submitted to them, and that, on these facts in relation to each case being presented, and the Committee being satisfied that the regulations of the 24th September (*supra*) would in all other respects be fulfilled, they will limit their aid to those cases in which proof is given of a great deficiency of education for the poorer classes in the district, of vigorous efforts having been made by the inhabitants to provide funds, and of the indispensable need of further assistance, and to those cases in which competent provision will be made for the instruction of the children in the school; the daily reading of a portion of the Scriptures forming part of such instruction.

The Committee will further give a preference to schools in which the religious instruction will be of the same character as that given in schools in connection with one or other of the above-named societies, and to those in which the school committee or trustees, while they provide for the daily reading of the Scriptures in the school, do not enforce any rule by which the children will be compelled to learn a catechism, or attend a place of divine worship, to which their parents, on religious grounds, object.

V. The following *Minute of the Committee of Council*, dated the 22nd November 1843, concerns the extension of the grants so as to aid the provision of schoolmasters' houses and school furniture and apparatus:—

Schoolmasters' Houses.

Their Lordships will make grants towards the providing or enlarging of houses of schoolmasters and schoolmistresses where schoolrooms have been erected (either with aid from the Parliamentary grant or otherwise); but where no house has been built, or no sufficient dwelling been provided for the master or mistress, upon the following conditions:—

1. That the school for which such house or dwelling is to be built or enlarged has been conveyed to trustees for the education of the children of the poor.
2. That their Lordships are satisfied, by the report of their inspector, that the school is efficiently conducted.
3. That the right of inspection of the school is secured by the deed of trust, or by an endorsement thereon.
4. That the site and premises are to be conveyed to trustees, as a residence for the master or mistress.³
5. That their Lordships are satisfied, by the report of their architect, that the proposed building will be substantial in structure and sufficient in size, the subscribers or trustees being otherwise at liberty to select their own plans.
6. That their Lordships are satisfied with the amount of local contributions to the new building.

Apparatus for Schoolrooms.

The Committee of Council will also make grants towards enabling the trustees or managers of any school to provide the schoolroom suitably with furniture and apparatus which may be necessary, in the first instance, to enable them to commence teaching in the school, and that not only in the case of new

¹ The Board of Education now require accommodation in new buildings to be on the basis of ten square feet for each child (or, in the case of infants, nine square feet).

² See *Minute* of 22nd November 1843, *infra*.

³ See the note to §7 (1) (d) of the Education Act, 1902 (p. 57).

schools, but where it is proposed to establish a day school where a Sunday school only has previously been kept.

Grants in Poor and Populous Places.

Their Lordships are prepared to give full effect to that portion of the order of the 8rd June 1839 which contemplates the making of larger grants towards the erection of schools in poor and populous places than are required elsewhere; and they will, in all cases whatever, consider the amount of grant to be made without reference to the plan of any proposed school having been drawn by their architect.

VI. Further *Minutes* and *Circulars* issued between 1843 and 1870 contained detailed regulations and explanations as to the objects, limits, and conditions of the grants. These were gradually consolidated in the Code, and their tenor is sufficiently shown by the extract from the Code of 1870, given under VII., *infra*.

VII. The Code of 1871, after reciting §96 of the Elementary Education Act, 1870 (see the note to that section, p. 259), provided that, subject to the conditions thereof, building grants would continue to be made, in cases where the application had been received on or before the 31st December 1870, upon the terms of Articles 22 to 27 of the Code of 1870. These Articles were as follows:—

22. Aid is not granted to build new elementary schools unless the Education Department are satisfied—

- (a.) That there is a sufficient population of the labouring class which require a school in the vicinity.
- (b.) That the religious denomination of the new school is suitable to the families relied upon for supplying scholars.
- (c.) That the school is likely to be maintained in efficiency.
- (d.) That the buildings, at the time of application, have not been begun nor contracted for, and that no trust deed has been executed.

23. That grants made by the Education Department for building, enlarging, improving, or fitting up elementary schools are not to exceed any one of the following limits, viz.:—

1st Limit.—The total amount voluntarily contributed by proprietors, residents, or employers of labour in the parish where the school is situated, or within a radius of four miles from the school. Such contributions may be in the form of—

- (a.) Individual subscriptions;
- (b.) Collections in churches or chapels in the same parish, or within the distance of four miles from the school;
- (c.) Materials, at the price allowed for them by the contractor, or at which sold off;
- (d.) Sites given without valuable consideration (the value to be certified by two professional surveyors);
- (e.) Cartage (the value to be certified by the parochial surveyor of roads).

2nd Limit.—2s. 6d. per square foot of internal area in new schoolrooms and classrooms.

3rd Limit.—£65 for each teacher's residence.

24. The site, plans, estimates, specifications, title, and trust deed must be previously approved by the Education Department.

25. The balance of expenditure which is not covered by the *voluntary local* contributions and by the *public grant*, taken together, may be made up from any other sources that are available, such as the proceeds of endowment or subscriptions which are not local.

26. Grants are not made for rooms intended to be used on Sundays only; nor for rooms under places of worship; nor to pay off debts for building; nor in consideration of former expenditure for building; nor for maintenance of buildings; nor for improving or fitting up schools which have already received the maximum amount allowable under Article 23.

27. The extension of the area of existing schoolrooms to receive more scholars, and the addition of teachers' dwellings to existing schoolrooms, are treated *pro tanto* as new cases under Article 23.

28. No application can be entertained if the approved estimate (Article 24) falls below £20 in small rural schools, or £50 in other schools.

The Site.

29. The site must be—

- (a.) *In extent*,
Not less than 1200 square yards.
- (b.) *In situation*,
(1.) Not unhealthy, nor noisy.
(2.) Within convenient distance from the homes of the scholars.
- (c.) *In tenure*,

Fee simple (Acts 4 & 5 Vict. c. 38,¹ and 12 & 13 Vict. c. 49²).

(1.) Without incumbrance, or rights reserved over the surface.

(2.) If with reservation of minerals, the party in whom the fee simple of them is vested must covenant to make compensation in the event of damage, and the grant made by the

¹ The School Sites Act, 1841 (p. 536).

² The School Sites Act, 1849 (p. 551).

Education Department must be the first charge upon such compensation ; the whole of which is to be applied as the Secretary of State for the Home Department may direct in furtherance of the trust for a school.

(3.) If subjected to powers of leasing, sale, or re-entry, the lease or sale must not be without the written consent of the Secretary of State for the Home Department, nor the re-entry without first repaying any grant which may have been paid in respect of the premises.

(4.) Leaseholds are not admissible, if fee simple can be obtained. The term must not be less than ninety-nine years, and there must be no onerous covenants, nor more than nominal rent.

(5.) Copyholds must be enfranchised (Act 12 & 18 Vict. c. 49, §6.)

The Trust Deed.

30. The trust deed must declare the premises to be granted in trust for the education of the poor, and for no other purpose whatever.² It must provide for the legal ownership of the premises, and for the inspection and management of the school, according to one or other of the precedents settled for : Church of England schools, British schools, Established Church of Scotland schools, Wesleyan schools, Free Church (Scotland) schools, Roman Catholic schools, Jewish schools, Episcopal Church (Scotland) schools, Undenominational schools (belonging to none of the previous classes, but in which the Bible is read daily from the authorised version).

31. When the trust deed has been executed according to the draft approved and sealed by the Education Department, and, when necessary, enrolled or registered, a copy of it, including all signatures, attestations, and endorsements, must be made on plain unstamped parchment, and lodged in the Education Office.

32. When the application is for a grant to enlarge, improve, or fit up an existing elementary school already conveyed in trust, the deed must be a legal conveyance of the land, and not at variance with any of the principles which determine the approval of new deeds. The right of inspection must be permanently secured (Act 7 & 8 Vict. c. 87, §§1 and 2³), and there must be no powers or reservations to which the Act 18 & 19 Vict. c. 181,⁴ cannot be applied, and which might become prejudicial to the school.

The Plans.

33. The plans (with specification and estimate), when approved and sealed, may be returned to the promoters for use, but must be lodged in the Education Office before a grant is paid.

Payment of Grants for Building, Enlarging, Improving, or Fitting up Elementary Schools.

34. The amount of the grant is not announced until after the draft trust deeds and plans have been sealed.

35. The grant must be accepted or declined within fourteen days.

36. The grant is paid on presentation of a certificate (with balance sheet annexed), by the building and managing committees of the school, setting forth that the building and conveyance are completed, and that the money in hand, raised by absolute donations, will, when added to the grant, meet all claims, and finally close the account.

37. Grants under £50 are treated as lapsed, if unpaid at the end of nine months, and grants above £50 at the end of eighteen months, from the date of announcing them.

¹ The School Sites Act, 1849 (p. 551).

² See the note to §7 (1) (d) of the Education Act, 1902 (p. 49).

³ The School Sites Act, 1844 (p. 548).

⁴ The School Grants Act, 1855 (p. 557).

DIVISION IV.

**MINOR ACTS, WITH MINUTES, RULES, AND ORDERS
RELATING TO EDUCATION.**

DIVISION IV.

MINOR ACTS, WITH MINUTES, RULES, AND ORDERS RELATING TO EDUCATION.

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BOARD OF EDUCATION.

PROVISIONAL CODE OF REGULATIONS FOR PUBLIC ELEMENTARY SCHOOLS AND TRAINING COLLEGES.

PREFATORY MEMORANDUM.

It should be understood that the following Code is provisional in character. It is issued to cover a period which is transitional, a period during which some elementary schools will, as heretofore, be maintained and conducted by school boards, or by voluntary managers, while others will be passing, at various dates in various localities, under the control of the new statutory educational authorities.

Early in next year, or so soon as they deem it advantageous, the Board intend to replace this provisional Code by a Code better adapted to meet the changed conditions which will have been created by the new Act.

It has been considered that it would be prudent, in the interests of all whom the Code concerns, to defer such wider changes as are necessary until experience has been gained of the working of the Act, more especially as regards the training of teachers, and pupil-teachers, and the conduct of elementary schools under the new conditions.

In this provisional Code, in order to make reference easier, the old numbering has been retained for the Articles which correspond, whether with or without modification in detail, with antecedent Articles in the Code for 1902. Several Articles have been omitted altogether as not applicable to schools on the new footing, while the wording of others has been more or less altered so as to be better suited to the new Act. Under these circumstances it would have served no good purpose to follow the practice of past years by setting forth *seriatim*, in an appendix, all the changes made. But in Schedule VIII. a list will be found of all Articles either cancelled or modified or newly established, while the following paragraphs set out every important change of substance, as distinct from merely verbal modifications, to which the attention of managers and of local authorities need be specially directed.

IMPORTANT CHANGES.

(1) *Dates for payment of Annual Grants.*

The arrangements for the date of payment of annual grants (*see* Articles 20 and 94) will not be the same as hitherto. The Board is publishing, in a separate document, information as to the times at which, and the manner in which, grants in respect of elementary education (including the new Aid Grant under §10 of the Education Act, 1902, and the Fee Grant) will be paid during the year 1903, in view of the special arrangements necessary for that period.

(2) *Reports of Inspectors.*

The Inspector will periodically test the efficiency of every school, and with this object, in accordance with current practice, he may visit a school at any time either with or without notice; but, when he is of opinion that the circumstances require it, he may, after due notice, hold a formal examination, whether of the school as a whole, or of any class in it (Article 22). Furthermore, it will not henceforward be obligatory on the Inspector to write a formal report (Article 65), year by year, upon every inspected school before the Annual Grant can be paid (Article 84) in respect of such school. Reports that have to be written every year, whether the staff and the work of the school have varied in any way or not, tend to become perfunctory and of little value. The object of every formal report on a school by the Inspector will in future be the giving of helpful guidance to the managers and the authorities as to the points in which improvements may be needed.

(3) *Teachers' and Pupil-Teachers' Agreements.*

No compulsory form of agreement for pupil-teachers will henceforward be issued by the Board of Education (Article 34). The terms on which pupil-teachers are

engaged may be varied with local circumstances, provided they conform to certain important requirements on particular points. These points are specified in Schedule VI.

Similarly, no model form of agreement for principal teachers in voluntary schools will any longer be issued. But, while leaving the parties to the agreement free to adapt their terms of engagement to the circumstances of the case, the Code requires that all agreements with teachers, whether principal or assistant, in such schools, should be in writing, and should include the particular clause set out in Article 71* which prohibits the imposition on any teacher of extraneous duties.

(4) *Superintendence of Pupil-Teachers.*

The distinction based upon an examination test only (Articles 61, 62, 64), between certificated teachers who are, and those who are not, recognised as qualified to superintend pupil-teachers, is now abolished. From this it follows that the privilege of re-examination, which has been allowed to the latter class of teachers for the purpose of qualifying themselves for admission to the former class, is no longer needed. Accordingly, while all certificated teachers will be provisionally regarded as so qualified, the Board reserve power to withdraw this recognition in cases where a certificated teacher is found not to possess sufficient knowledge or aptitude for the task, or to be negligent in its performance. Inspectors will be instructed to exercise great vigilance in regard to the efficient supervision of pupil-teachers by principal teachers.

(5) *Teachers, under Article 68.*

As a condition of the recognition, or continued recognition, of an untrained woman teacher under Article 68, the Board may require arrangements to be made for the due training of such teacher.

(6) *School-Staffing.*

The rule under which each teacher counted on the staff as sufficient for a certain number of children in average attendance has been altered. Henceforth the scale set forth in Article 73 will indicate a minimum school staff in the sense that, subject to unforeseen or unavoidable contingencies as provided for in Article 92, no public elementary school in which the regular staff is below that scale can be considered eligible for grants at all. Consequently, the provision in the Code (Articles 108, 109) for paying the grant in such cases, with a reduction in proportion as the staff might prove to have been below the scale, has been cancelled. The Board desire it to be clearly understood that, in future, a staff confined to the scale set out in Article 73 is not to be regarded as universally, or even generally, sufficient to justify the payment of the State subsidy. The various circumstances and requirements of each particular school will in every case be carefully considered, and the sufficiency and suitability of the staff, thus measured and estimated, will be deemed to be a condition precedent to the payment of any annual grant at all for that school.

It is probable that Article 49* will be abolished in next year's Code.

(7) *The Epidemic Grant (Article 101*).*

After March 31st, 1903, the Board will discontinue the special Epidemic Grant which has hitherto been allowed to schools in compensation for loss of income in any particular year, owing to the grant being payable on a diminished attendance while the expenditure on staff and maintenance remained unreduced. The amounts paid under this Article to individual schools have, as a rule, been inconsiderable as compared with the total income and expenditure of the year. Many difficulties, too, have been found incident to the administration of the Article, and it is believed that the money spent under its provisions might better be devoted to the improvement of the instruction given to pupil-teachers. Arrangements are accordingly being made to effect this.

(8) *Age-Limits for Attendances.*

The age-limits within which attendances of scholars may be reckoned for the purposes of Annual Grants have been amended in accordance with the notice given in the Code of 1902.

(9) *Manual Training ; Physical Training ; Examinations for Special Purposes.*

Revised and amended regulations (Schedules II. and III.) have been drawn up for manual and physical training, and the list of examinations and certificates recognised for special purposes has been revised and enlarged. The list now includes a list of training schools of housewifery.

(10) *The Revised Instructions.*

The re-modelling of the Revised Instructions is deferred until they can be issued in a complete form in connection with a more definite Code. Meanwhile the regulations as to needlework, singing, cookery, and laundry-work, set forth in Appendices III., IV., and V. of the Revised Instructions of 1902, remain in force.

(11) *The Keeping of School Records.*

A new schedule, Schedule VII., is appended to the Code setting out the Board's rules for the keeping of school records. In substance the new schedule is a revision of Appendix II. of the Revised Instructions of 1902, in accordance with the new conditions of the Act of 1902.

(12) *Accounts in Schools not maintained by a Local Education Authority.*

The directions as to school accounts which are to be found in the Revised Instructions of 1902 will continue in force for all schools not maintained by a Local Education Authority under the Education Act, 1902. But from the time that any school comes under the control of a Local Education Authority under that Act, it will cease to be affected by those directions. New instructions as to their accounts of educational expenditure will be issued to the Local Education Authorities by the Local Government Board. At a later date the Board of Education will explain the nature of the financial and other statistics which will be required by the Board from those authorities.

ROBERT L. MORANT.

CODE OF MINUTES of the BOARD OF EDUCATION presented to Parliament pursuant to the 97th Section of the Elementary Education Act, 1870, and to lie on the Tables of both Houses for one month.

[Hitherto ordinarily known as the Day School Code.]

1. [Cancelled.]
2. [Cancelled.]

PART I.—PUBLIC ELEMENTARY SCHOOLS.

CHAPTER I.

INTRODUCTORY.

'Elementary School.'

3. The term 'Elementary School' means 'a school or department of a school at which elementary education is the principal part of the education there given, and does not include any school or department of a school at which the ordinary payments in respect of the instruction, from each scholar, exceed ninepence a week.' (*Elementary Education Act, 1870, §3.*)

The 'ordinary payment' for each scholar must cover all the instruction given in the school; and will, as a rule, be found by dividing the total amount of fees payable for any week, by the number of scholars on the registers for that week. But if more than one-third of the scholars pay fees exceeding ninepence a week the 'ordinary payment' will be considered to exceed ninepence a week. The term 'payments in respect of the instruction' means the fee payable by the parent, and does not include any payment for the purchase of books or other such articles. But a weekly or other periodical payment for the use of books or other school requisites, if required as a condition of admission to the school, is treated as a fee.

3a. Wherever the word 'school' occurs in this Code, it is to be held to include 'department of a school.' For the purposes of this Code the Board of Education, hereinafter called the Board, have power to decide whether a part of a school is or is not a department.

'Public Elementary School.'

4. The term 'Public Elementary School' is defined by the Elementary Education Act, 1870, §7, which is as follows :—

'Every elementary school which is conducted in accordance with the following regulations shall be a public elementary school within the meaning of this Act; and every public elementary school shall be conducted in accordance with the following regulations (a copy of which regulations shall be conspicuously put up in every such school); namely :—

- (1.) It shall not be required, as a condition of any child being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday-school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere, from which observance or instruction he may be withdrawn by his parent, or that he shall, if withdrawn by his parent, attend the school on any day exclusively set apart for religious observance by the religious body to which his parent belongs :
- (2.) The time or times during which any religious observance is practised, or instruction in religious subjects is given at any meeting of the school, shall be either at the beginning or at the end, or at the beginning and the end of such meeting, and shall be inserted in a time-table to be approved by the Education Department, and to be kept permanently and conspicuously affixed in every schoolroom; and any scholar may be withdrawn by his parent from such observance or instruction without forfeiting any of the other benefits of the school :
- (3.) The school shall be open at all times to the inspection of any of His Majesty's inspectors, so, however, that it shall be no part of the duties of such inspector to inquire into any instruction in religious subjects given at such school, or to examine any scholar therein in religious knowledge, or in any religious subject or book :
- (4.) The school shall be conducted in accordance with the conditions required to be fulfilled by an elementary school in order to obtain an annual parliamentary grant.'

'Inspector.'

5. The term 'Inspector' means one of the inspectors of the Board, or any person employed by the Board for the purpose of inspection.

'Organising Teacher.'

5*. For the purposes of the Elementary School Teachers Superannuation Act, 1898,² an 'Organising Teacher' is a person who is recognised as such by the Board, and who is employed with the sanction of the Board to pay visits of inspection to schools, or to instruct or examine teachers in any special subjects or educational methods, or to instruct or examine candidates for the office of pupil-teacher.

6. } [Cancelled.]

8. [Transferred to Article 85.]

Correspondent.

9. (a) The body of managers of every school maintained by a local education authority under the Education Act, 1902, must have a correspondent through whom any communications with the Board or with the local education authority that may be necessary should be made.
- (b) All communications from the Board in respect of the ordinary matters of control and maintenance of a school maintained by a local education authority under the Education Act, 1902, will, as a rule, be made to the clerk or secretary of the Education Committee of that authority, or such other person as may be named for the purpose by that authority with the approval of the Board.
- (c) Every school not maintained by a local education authority³ under the Education Act, 1902, must have responsible managers, and a correspondent, as required in the Code of 1902.

¹ See the notes to §7 of the Elementary Education Act, 1870, p. 190.

² See §1 (5) of the Elementary School Teachers Superannuation Act, 1898, p. 714.

³ See §15 of the Education Act, 1902, p. 103.

'Local Authority.'

10. The term 'Local Authority' means the Local Education Authority acting under Part III. of the Education Act, 1902, where that Act is in operation, and the school board or school attendance committee, as the case may be, where that Act is not yet in operation.

'Half-time Scholar.'

11. The term 'half-time scholar' means a scholar certified by the local authority to be employed in conformity with the bye-laws,¹ or, if not subject to the bye-laws, in conformity with the Elementary Education Act, 1876, or any other Act regulating the education of children employed in labour, and in either case recognised by the Board as a half-time scholar.

'Attendance.'

12. 'An attendance' means attendance at secular instruction—

- (a.) during one hour and a half in the case of a scholar in a school or class for infants ;
- (b.) during two hours in the case of a scholar in a school or class for older children ; and during one hour and twenty minutes in the case of a half-time scholar. The attendance of a half-time scholar for less than two consecutive hours is not recognised, but such two consecutive hours are reckoned as an attendance and a half.

A separate register must be kept for half-time scholars ;² and the certificate of the inspector shall be conclusive proof of the number of attendances made by half-time scholars.

- (c.) The marking of the registers for the afternoon meeting may not, without the special consent of the Board, commence within an hour of the close of the morning meeting.³
- (d.) The class registers must be marked and finally closed before the minimum time constituting an attendance begins. If any scholar entered in the register as attending is withdrawn from school before the minimum time constituting an attendance is complete, the entry of attendance should be at once cancelled.
- (e.) The minimum time constituting an attendance may include an interval for recreation of not more than 15 minutes in a meeting of three hours and not more than 10 minutes in a shorter meeting. A meeting of two hours or more must include an interval for recreation of not less than 10 minutes.
- (f.) In making up the minimum time constituting an attendance there may be reckoned time occupied by instruction in any of the following subjects, whether or not it is given in the school premises or by the ordinary teachers of the school, provided that special and appropriate provision approved by the inspector is made for such instruction, and the times for giving it are entered in the approved time-table :—

Drawing.
Manual Instruction.
Science.
Physical Training.
Cottage Gardening.

Domestic Economy, Practical Cookery, Laundry Work, Dairy Work, Practical Housewifery.

Any other subject specially recognised by the Board for the purposes of this Article.

N.B.—Games such as football, cricket, etc., cannot be recognised in making up the time constituting an attendance.

- (g.) (i) Visits paid during the school hours under proper guidance to museums, art galleries, and other places of educational value, or of national or historical interest, may be reckoned as attendances in accordance with sections (a) and (b) of this Article, provided that not more than twenty such attendances may be claimed for any one scholar in the same school year, and that the places to be visited and the arrangements for such visits are approved by the inspector.
- (ii) Attendances at a central examination (not being an examination for labour certificates) may be reckoned as attendances in accordance with sections (a) and (b) of this Article, provided that the arrangements for such examination are previously approved by the inspector.
- (h.) In making up the minimum time constituting an attendance there may be reckoned time occupied in attending at a training college or central class for pupil-teachers for the purpose of model or criticism lessons.

¹ For the model form of bye-laws, see p. 381.

² See paragraphs 16 to 20 of Schedule VII., p. 607.

³ See paragraph 9 of Schedule VII., p. 607.

13. No attendance may be reckoned for purposes of grants from the Board for any scholar under three or over fifteen years of age, or for any scholar while habitually employed as a monitor.¹

'Average Attendance.'

14. The 'average attendance' for any period is found by dividing the total number of 'attendances' made during that period by the number of times for which the school has met during such period.

Course of Instruction.

15. (a) The course of instruction in infant schools and classes should, as a rule, include—

Suitable instruction in reading, writing, and numbers.

Simple lessons on common things.

Appropriate and varied occupations.

Needlework.

Drawing.

Singing.

Physical Training.

(b) The course of instruction in schools for older scholars is as follows :—

(i.) English, by which is to be understood reading, recitation, writing, composition, and grammar in so far as it bears upon the correct use of language

Arithmetic

Drawing (for boys)

Needlework (for girls)

Lessons, including object-lessons, on geography, history, and common things

Singing, which should as a rule be by note

Physical Training (*see* Schedule III.)

To be taken as
a rule in all
schools.

N.B.—It is not necessary that all these subjects should be taught in every class.

One or more of them may be omitted in any school which can satisfy the inspector and the Board that there is good reason in its case for the omission.

(ii.) Algebra
Euclid
Mensuration
Mechanics
Chemistry
Physics
Elementary Physics and Chemistry
Animal Physiology
Hygiene
Botany
Principles of Agriculture
Horticulture
Navigation
Latin
French
Welsh (for scholars in schools in Wales)
German
Book-keeping
Shorthand, according to some system recognised by the Board
Domestic Economy or Domestic Science
Drawing (for girls)
Needlework (for boys)

One or more of
these is to be
taken when the
circumstances of
the school, in the
opinion of the in-
spector, make it
desirable.

¹ See the note to §1 of the Elementary Education Act, 1900, p. 327, and note 3 to §22 of the Education Act, 1902, p. 144.

- | | |
|---|-----------------------------------|
| (iii.) Cookery (<i>see</i> Art. 101 (g)) | } For girls. |
| Laundry Work (<i>see</i> Art. 101 (h)) | |
| Dairy Work (<i>see</i> Art. 101 (i)) | |
| Household Management (<i>see</i> Art. 101 (m)) | |
| Cottage Gardening (<i>see</i> Art. 101 (k)) | } For boys. |
| Manual Instruction (<i>see</i> Art. 101 (l)) | |
| Cookery (<i>see</i> Art. 101 (g)) | } For boys in sea-
port towns. |

Where manual instruction is taken, it is desirable that suitable occupations leading up to it should be taken in the lower classes.

16. Any subject, other than those mentioned in Article 15, may, if sanctioned by the Board, be included in the course of instruction, provided that a graduated scheme for teaching it be submitted to, and approved by, the inspector.

17. Instruction may be given in religious subjects, but no grant is made in respect of any such instruction (*Elementary Education Act*, 1870, §97 (1)).

CHAPTER II.

INSPECTION.

Duties of Inspectors.

18. Inspectors are employed to visit schools to enquire whether the conditions of annual grants have been fulfilled, and to report to the Board.

Application for Grants.

19. No school is placed on the list of schools towards the maintenance of which annual grants are made, hereinafter called 'the annual grant list,' until an application has been addressed to the Secretary, Board of Education, Whitehall, London, S.W., and a form of preliminary statement has been filled up and sent to the Board.

Any school for which the entire annual grant is withheld, is at once removed from the annual grant list, and cannot be replaced on that list until a fresh application has been addressed to the Board.

School Year.

20. The school year is the year or other period for which an annual parliamentary grant is for the time being paid or payable under this Code.

Educational Year.

21. The educational year need not be identical with the school year.

Visits of Inspectors.

22. (a) An inspector may visit at any time, with or without notice, any public elementary school or place in which the scholars are receiving instruction under the Code. The registers, portfolio, and log-book must, if required, be produced for his inspection, and any of these documents may be required to be sent either to him or to the Board.

(b) The inspector may, where he considers it desirable, hold a formal examination of any class in the school upon the work done by the class during the previous six months; but not less than six months' notice will be given before such examination is held.¹

23. [Cancelled.]

¹ See Prefatory Memorandum, p. 567.

Summary of Report.

24. The summary of any report made by the inspector, and any remarks made upon it by the Board, must, as soon as received, be copied verbatim into the log-book and signed by the correspondent.

25. }
 26. }
 27. } [Cancelled.]
 28. }
 29. }

CERTIFICATES OF PROFICIENCY.

30. At any visit of an inspector to a public elementary school, he will examine for a certificate of proficiency any child over twelve years of age, or if the child is to be employed in agriculture under any bye-law made under §1 of the Elementary Education (School Attendance) Act, 1893, Amendment Act, 1899, over eleven years of age, whether a scholar in the school or not, if the child's parent or guardian, or the local authority, apply for the child to be examined for such a certificate; but the inspector is at liberty to refuse to examine any child for whose examination due provision is made elsewhere, or any child who has not been instructed for at least six months in the standard in which he is presented, or who has failed in that standard at an examination held in the previous three months.¹

Certificates of proficiency are certificates of having reached any standard prescribed by the Code. To 'reach a standard' a child must be individually examined in reading, writing, and arithmetic in that or a higher standard, and must pass in each of those subjects.

CHAPTER III.

TEACHERS.

Classes of Teachers.

31. The teachers recognised by the Board are (a) probationers; (b) pupil-teachers; (c) provisional assistant teachers; (d) assistant teachers; (e) provisionally certificated teachers; (f) certificated teachers; (g) women approved by the inspector as additional teachers.

Teachers to be Lay Persons.

32. Lay persons alone are recognised as teachers.

PROBATIONERS.

33. Boys or girls over 13 and under 16 years of age and exempt from legal obligation to attend school may be recognised as probationers, provided that they are approved by the inspector, and are employed with the intention that they shall subsequently enter into engagements as pupil-teachers in the school.

Probationers are not permitted to serve in school during more than half the time that the school is open; and they must receive suitable instruction during the term of their employment.

Certificates of health and character, and, in the case of girls, of proficiency in needlework, must be furnished for probationers proposed for recognition under this Article.

For the standards of examination in reading, writing, and arithmetic prescribed by the Code, see rule I. p. 300, and as to certificates of proficiency, see p. 342.

PUPIL-TEACHERS.

34. A pupil-teacher is a boy or girl engaged to serve in a public elementary school during some portion of the school hours under the superintendence of the principal teacher, on condition of receiving suitable instruction. The Board may decline to recognise any pupil-teachers where they consider that this condition is not satisfied.

The terms of the engagement of a pupil-teacher must include the conditions set forth in Schedule VI. The Board will not recognise any pupil-teacher whose engagement does not include those conditions.

Engagements.

35. Candidates, in order to be engaged as pupil-teachers, must be presented to the inspector for approval, and must pass the examination specified in Schedule V., or some other examination recognised by the Board for the purpose of this Article (*see* Schedule IV. A.) The certificates specified in Schedule V. must also be furnished.¹

Central Classes.

36. Central classes² for the instruction of pupil-teachers must be open at all times to the inspection of the Board, and the Board must be satisfied with the premises and general arrangements. The names of all teachers employed in such classes must be notified to the Board, and the time-table must be approved by the inspector.

Central classes will not be recognised for the purpose of Article 63, or of the Elementary School Teachers Superannuation Rules, 1899, unless five meetings of not less than two hours each are held in the morning or afternoon in each week.

Pupil-teachers may receive their instruction in secondary schools under conditions approved by the Board.

37. Pupil-teachers and probationers must, as a rule, be of the same sex as the principal teacher of the school in which they are engaged.

Where a girl is engaged as a pupil-teacher or probationer in a school under a master, and receives instruction from him out of school hours, some respectable woman must invariably be present during the whole time that such instruction is being given.

Girls are not, as a rule, recognised as pupil-teachers or probationers in a boys' school, nor boys in a girls' or infants' school.

38. The engagement of a pupil-teacher can only begin on the 1st of July or on the 1st of January. One of these dates must be uniformly adopted for all pupil-teachers in the same school.

39. (a) Pupil-teachers must be, except as hereinafter provided, not less than 15 years of age at the beginning of their engagement.

(b) In rural schools candidates between the ages of fourteen and fifteen may, with the special consent of the inspector, be admitted for an engagement of four years. In such cases the candidates will be required before admission to pass an examination in the three elementary subjects up to and including Standard VII. and in the elements of grammar, geography, and history. Certificates of health and character, and, in the case of girls, of proficiency in needlework, must be furnished for candidates proposed for admission as pupil-teachers under this Article.

40. The length of the engagement will ordinarily be three years, but may be two, or one, provided that (a) the candidate passes the examination prescribed by Schedule V. for such shorter engagement, and (b) the end of the reduced term of service falls beyond the completion of the candidate's eighteenth year.

Candidates may be admitted for an engagement of one or more years, provided that (a) they have passed not more than two years previously an examination recognised by the Board (*see* Schedule IV. A.), and (b) the end of the engagement falls beyond the completion of the candidate's eighteenth year.

¹ These are certificates of health and character.

² See note 7 to §22 of the Education Act, 1902, p. 146.

Certificates and Examinations.

41. (a) Pupil-teachers are not required to take any examination after admission other than that prescribed by Article 41 (f), but in each year of their engagement the inspector must be satisfied that they are properly taught and diligent in their studies, and certificates of good conduct must be produced.

(b) If the inspector's report or the certificates are not satisfactory, the recognition of the pupil-teacher may cease from the end of the month in which the decision of the Board is announced.

(c) [Cancelled.]

(d) The collective examination of candidates is held in the spring.

In 1903 the examination will be on 4th April.

(e) The inspector will give notice of the time and place at which the collective examination will be held.

Notice should, in accordance with Article 46, be given to the Board of the names of pupil-teachers who will attend the King's Scholarship Examination.

(f) The final examination of pupil-teachers will (unless some other examination recognised by the Board under Schedule IV. B. is taken) be the King's Scholarship Examination next preceding the termination of their engagements. The King's Scholarship Examination may be deferred for a year if the engagement is extended under paragraph 2 (b) of Schedule VI.

Number of Pupil-Teachers.

42. The number of pupil-teachers recognised by the Board must not exceed three for the principal teacher, and one for each certificated assistant teacher.

For the purposes of this Article a probationer is reckoned as equivalent to a pupil-teacher.

Pupil-teachers, whose engagements have been extended under §2 (b) of Schedule VI. will not be reckoned as pupil-teachers for the purposes of this Article.

43. [Cancelled.]

44. [Cancelled.]

45. [Cancelled.]

EXAMINATION FOR ADMISSION TO TRAINING COLLEGES.*King's Scholarship Examination.*

46. The examination of candidates for admission into training colleges, called the 'King's Scholarship Examination,' is held at each college, and at such other centres as are necessary. The examination in 1903 will be held on the 15th December and following days.

The names of all candidates must be notified to the Board before the 1st of October.

It will be necessary to enforce this rule strictly.

Arrangements will be made for the special examination, in the summer of 1903, of blind candidates proposing to enter a recognised training college for the blind in the autumn of 1903.

Subjects.

47. The examination extends to all the subjects specified in Schedule V.

A syllabus may be had on application to the Secretary, Board of Education, Whitehall, S.W.

Candidates.

48. (a.) Candidates attending the examination must be either pupil-teachers entering for their final examination under Article 41 (f) or, not being pupil-teachers,

persons over eighteen years of age on the 1st of October next following the date of the examination.

Persons who have not been pupil-teachers will be required to produce a satisfactory medical certificate, in a form approved by the Board, previous to their admission to the King's Scholarship Examination.

(b.) Candidates attending the examination at any training college are selected and admitted to the examination by the authorities of each college, provided that such candidates have previously obtained permission from the Board to attend the examination.

(c.) All pupil-teachers entering for their final examination will be required to attend at centres as to which information will be given by the Board, unless they are examined at colleges pursuant to Article 48 (b).

Class List.

49. The candidates who pass the examination are arranged in three classes.

PROVISIONAL ASSISTANT TEACHERS.

49*. Persons who have completed an engagement as pupil-teachers, but have failed at the King's Scholarship Examination during their engagement, may, with the consent of the inspector, be recognised as provisional assistant teachers during the two years immediately succeeding the last examination taken by them during their engagement.

This Article will probably cease to be operative after March 31st, 1904.

ASSISTANT TEACHERS.

50. Persons may be recognised as assistant teachers who (a) have passed the King's Scholarship Examination; or (b) were qualified under previous Codes as assistant teachers.

The examinations in Articles 50 and 52 will be held to include the corresponding examinations of the Scotch Education Department.

Persons who have passed the special King's Scholarship Examination for blind candidates (Art. 46) are not thereby qualified for recognition as teachers under this Article.

51. (a.) Graduates, or persons qualified by examination to become graduates, in arts or science of any university in the British Empire recognised by the Board for the purposes of this Article, may be recognised as assistant teachers.

(b.) Persons over eighteen years of age, who have passed university and other examinations recognised by the Board (*see* Schedule IV. B.), may be recognised as assistant teachers.

(c.) Teachers certificated in the second class or recognised in the first or second grade by the Irish Commissioners of National Education, teachers so certificated in the first class who have not been trained in a training college, and teachers who have passed in the revised examination and been trained in a training college, may, subject to a satisfactory report from the Commissioners, be recognised as assistant teachers.

(d.) Persons holding the Army Acting Schoolmaster's Certificate and recommended by the War Office, may, subject to a favourable report from the inspector, be recognised as assistant teachers.¹

Teachers proposed for a first engagement under Article 51 must produce a satisfactory medical certificate in a form approved by the Board.

The recognition of assistant teachers under Articles 50 and 51 will date from the first day of the month succeeding the close of the examination by which they are qualified.

¹ This provision is new in the Code for 1903.

PROVISIONALLY CERTIFICATED TEACHERS.

Conditions of Recognition.

52. Pupil-teachers who after the satisfactory completion of their engagement, and women who after two years' service in public elementary schools as recognised additional teachers (Art. 68), have obtained a place in the first class in the King's Scholarship Examination, may, if specially recommended by the inspector on the ground of their practical skill as teachers, be recognised as 'provisionally certificated teachers' (*see* Art. 82 (a)).

Persons who passed the first year's examination for certificates in June 1891 or subsequently are recognised as provisionally certificated teachers.

Persons who have served for not less than twelve months as assistant teachers under Article 51 in public elementary schools, may also be recognised as provisionally certificated teachers, if specially recommended by the inspector on the ground of their practical skill as teachers.

Persons who were under previous Codes qualified as provisionally certificated teachers, may be recognised as provisionally certificated teachers.

53. No certificate is issued to provisionally certificated teachers.

Lapse of Recognition.

54. Provisionally certificated teachers cease to be recognised as such after the end of the school year in which they complete the twenty-sixth year of their age, or if the schools or classes of which they are in charge are twice reported to be inefficient (Art. 86).

CERTIFICATED TEACHERS.

55. Candidates for certificates must, except in the cases otherwise provided for in this Code, be examined, and undergo probation by actual service in school.

56. The examination will be held on 6th-10th July 1903, at each residential training college, and at such other times and places as may be necessary.

Regulations and syllabuses may be had on application to the Secretary, Board of Education, Whitehall, S.W.

The examination for certificates held by the Scotch Education Department is accepted as equivalent to the corresponding English examination.

Arrangements will be made for the special examination of blind candidates for teachers' certificates. These certificates will be recognised only in schools for the blind.

57. [Cancelled.]

57*. (i.) The examination is open to candidates who have satisfied the following conditions—

- (a.) Candidates must be not less than twenty years of age on the 1st October of the year in which they are examined.
- (b.) They must either (1) have passed the King's Scholarship Examination, or an examination recognised by the Board of Education under Article 51 (b) of the Code, not less than two years previously to the 1st October of the year in which they are examined for certificates; or (2) be qualified under Article 50 (b) or Article 51 (a) or (c) of the Code.
- (c.) They must have been employed for at least one year (1) in schools under inspection by the Board of Education, or (2) in approved central classes for the instruction of pupil-teachers, and must, while so employed, have

obtained a favourable report from an inspector on their skill in teaching, reading, and recitation. This report should as a rule be obtained during the twelve months immediately preceding their examination.

(ii.) The examination will also be open to—

(a.) Students in training colleges who have completed the period of training prescribed in Article 120 of the Code.

(b.) Persons who have been employed for not less than three years as teachers in schools certified under the provisions of the Elementary Education (Blind and Deaf Children) Act, 1893, provided they are not less than twenty years of age on the 1st October of the year in which they are examined.

58. Candidates who at the time of the examination are not teachers in schools under inspection must produce a satisfactory recommendation from their college, or from the school in which they last served.

Notification of Names.

59. The names of all candidates for the examination not being students in any training college must be notified to the Board before the 1st of May.

N.B.—It will be necessary to enforce this Article strictly.

Recognition as Certificated Teachers.

60. Teachers who have passed the examination may be recognised as certificated teachers from the first day of the month succeeding the close of the examination.

(a.) Teachers who on or before the 1st January 1891 would have been entitled under previous Codes to recognition as certificated teachers will continue to be similarly recognised.

(b.) Graduates, or persons who are qualified by examination to become graduates, in arts or science of any university in the British Empire recognised by the Board for the purposes of this Article, and Associates of the Royal College of Science, may be recognised as certificated teachers, provided that they hold a certificate of proficiency in the theory and practice of teaching issued by a university or collegiate body and recognised by the Board for the purposes of this Article (*see* Schedule IV. C.).

(c.) Teachers certificated in the first class, or reported as having passed with special distinction in the revised examination by the Irish Commissioners of National Education, who have been trained in a Training College may, subject to a satisfactory report from the Commissioners, be recognised as certificated teachers.

N.B.—Teachers certificated after 1st April 1899 are not recognised as certificated teachers until the Board are satisfied, in the manner prescribed by the Elementary School Teachers Superannuation Rules, 1899, of their age and physical capacity.¹

Superintendence of Pupil-Teachers.²

61. Lists are published showing the successful candidates in each year's examination, whether students or not.

62. Certificated teachers are entitled to superintend pupil-teachers, but this right may be suspended or withdrawn if the Board, on the report of the inspector, consider that a teacher does not show sufficient aptitude or skill or knowledge for this task, or has neglected his or her duty.

Teachers on Probation. Parchment Certificate.

63. A certificated teacher, in order to obtain a parchment certificate, must (i) have been employed for not less than eighteen months as a certificated teacher in recorded

¹ See Rules 6 and 7, p. 724.

² See Prefatory Memorandum, p. 568

service¹ as defined by the Elementary School Teachers Superannuation Act, 1898, §1 (5), and the Elementary School Teachers Superannuation Rules, 1899, §9,¹ and must have obtained a favourable report from an inspector;

Or (ii) must have been reported by the proper department in each case to have completed a like period of good service as an elementary teacher in the army or navy, or (within Great Britain) in poor-law schools, certified industrial or day industrial schools, or certified reformatories.

Teachers who have been allowed a third year of training under Article 120 may obtain their parchment certificate after one year's employment as above defined.

64. [Cancelled.]

65. [Cancelled.]

66. [Cancelled.]

RECALL OR SUSPENSION OF CERTIFICATES.

67. A certificate may at any time be recalled or suspended, but not until the Board have used every available means of informing the teacher of the charges against him and of giving him an opportunity of explanation.

EXPIRATION OF CERTIFICATES.

67*. The certificate of a teacher, who becomes certificated after 1st April 1899, shall expire on his attaining the age of 65 years, or, if the Board on account of his special fitness allow his service to continue for a further limited time, then on the expiration of that limited time.²

The provisions of this Article shall apply to teachers certificated before 1st April 1899 who have accepted the Elementary School Teachers Superannuation Act, 1898, with the following modification, that is to say:—if the teacher had at the date of the acceptance of the said Act attained the age of 65 years or any greater age, the date of such acceptance shall be substituted for the date at which the teacher attained the age of 65 years (*Elementary School Teachers Superannuation Act, 1898, §§1 (2) (a) and 5 (2) (b)*).²

ADDITIONAL TEACHERS.

68. In mixed and girls' schools, and in infant schools and classes, a woman over eighteen years of age approved by the inspector, who is employed during the whole of the school hours in the general instruction of the scholars and in teaching needle-work, is recognised as an additional teacher.

In boys' schools, with the special approval of the Board, a woman over eighteen years of age approved by the inspector, who is employed during the whole of the school hours in the instruction of the lower classes, is recognised as an additional teacher.

Teachers proposed for a first engagement under this Article must produce a satisfactory medical certificate in a form approved by the Board.

As a condition of recognition or continued recognition under this Article, the Board may require such arrangements to be made for the training of the teacher as the circumstances of the case may render expedient.

69. } [Cancelled.]
70. }

¹ For the sections referred to, see pp. 714 and 724 respectively.

² For §1 (2)(a) and §5 (2)(b) of the Elementary School Teachers Superannuation Act, 1898, see pp. 713 and 718.

SCHOOL STAFF.

71. The recognised teachers employed in any school form the school staff.

No paid teachers who are members or officers of school boards or school attendance committees can be recognised as part of the school staff.¹

71*. The engagements of all teachers in schools not provided by a local authority must be in writing. Such engagements must contain the following clause :—‘The teacher shall not be required to perform or abstain from performing any duties outside the ordinary school hours, or unconnected with the ordinary work of the school.’ The Board will not recognise any teacher in such schools where this condition is not complied with.²

72. [Cancelled.]

¹ See note 9 to §17 (4) of the Education Act, 1902, p. 119.

² The issue of a model Form of Agreement by the Board of Education has been discontinued in the Code of 1903. The following Form of Agreement has been approved by the National Society for use in schools in union with them, and may *mutatis mutandis* be made available for use in voluntary schools generally :—

MEMORANDUM OF AGREEMENT made this _____ day of _____, 190____,
BETWEEN THE BODY OF MANAGERS of the SCHOOL known as _____,
School, being a Church of England School and situate in the Parish of _____
in the _____ of _____
hereinafter called the Managers, of the one part, and _____
hereinafter called the Teacher, of the other part.

¹ County, County Borough, Borough, Urban District, as the case may be.

IT IS HEREBY AGREED as follows :—

1. The Managers pursuant to the powers given to them by the Education Act, 1902, hereby appoint the said _____ department of the _____ Boys, Girls, Infants, Mixed, as the case may be.
to be Principal Teacher of the said School.

2. The salary of the Teacher shall be £ _____ per annum, to be paid to him by the Council of the _____ by quarterly _____, the _____
[or monthly] payments on the _____ day of _____, the _____
day of _____ and the _____ day of _____, the _____
_____ day of _____, the _____

³ County, County Borough, Borough, Urban District, as the case may be.

4. [The Teacher, while Teacher of the said School, but no longer, shall have the use and enjoyment of the Teacher's Dwelling House attached to the said School, it being agreed that such use and enjoyment is accepted by the Teacher as equivalent to an addition of £ _____ per annum to the above-mentioned salary.]

⁴ The Clause in italics may be used where the Teacher occupies a House as part of his remuneration.

Under the Education Act, 1902, the Managers may make a charge to the Local Authority for the Teacher's Dwelling House.

3. In consideration of the said appointment and salary the Teacher agrees to act as _____ of the said department of the said School from the _____ day of _____ 19____ under the direction of the Managers in accordance with the requirements of the Board of Education, and will at the times appointed on week-days for religious instruction instruct the children attending the said School in the Holy Scriptures, in the Catechism of the Church of England and the Book of Common Prayer, and in accordance with the Syllabus for the time being approved by the Bishop of the Diocese, and will attend all examinations authorised by the Managers; the said Teacher also agrees to instruct the Pupil Teachers in the said School in accordance with directions given by the Managers and the requirements of the Code of the Board of Education for the time being in force.

4. The holidays of the School shall not be less than _____ weeks in each year, to be allowed at times to be appointed by the Managers.

⁵ Master, Mistress, as the case may be.

5. This Agreement may be terminated at any time by either of the parties hereto giving to the other of them any three calendar months' notice in writing to that effect. And it shall be sufficient that any such notice, if given by the Managers, shall be signed by their Chairman on behalf of the Managers. Where such notice is given with the consent of the Local Education Authority or by their direction, a statement that such consent or direction has been given shall appear on the face of the notice, and as between the Managers and Teacher shall be conclusive evidence that such consent or direction has been given, and if such notice is given by the Managers on grounds connected with the giving of religious instruction in the school, the fact that it is given on those grounds shall in like manner appear on the face of the notice.

6. It shall be sufficient service of any notice given by the Teacher if it be addressed to the Chairman of the Managers and delivered at or sent by registered post to his last known address in the Parish, and it shall be sufficient service of any notice given by the Managers if it be addressed to the Teacher and delivered at or sent by registered post to the School House.

7. The Teacher shall not be required to perform or abstain from performing any duties outside the ordinary School hours or unconnected with the ordinary work of the School.

Minimum School Staff.¹

73. In determining what is the minimum school staff required, the Board will have regard to the number of children in attendance, their organisation and proficiency, the nature of the approved course of instruction, and the qualifications of each member of the staff. In no case will a staff below the following scale be considered sufficient.

Teacher.	Number of children in average attendance.
Principal certificated,	50
Additional certificated,	60
Assistant (whether or not provisionally certificated),	45
Provisional assistant teacher,	30
Additional teacher under Article 68,	30
Pupil-teacher,	30
Probationer,	20

The number of children habitually present at any one time under the instruction of any teacher or teachers should not exceed, by more than 15 per cent. the number for which such teacher or teachers is or are recognised.

In Greenwich Hospital and marine schools this Article will not be applied.²

Vacancies during the School Year.

74. Where vacancies in the office of any teacher, other than the principal teacher, occur in the course of a school year, and are duly reported to the Board, temporary monitors, employed in place of the teachers causing the vacancies, are recognised as part of the school staff, each monitor being accepted as equivalent to a pupil-teacher, provided always that the vacancies are supplied not later than the first day of the next school year by the appointment of duly qualified teachers.

⁵ County, County Borough, Borough, Urban District.

⁷ This will be the Salary exclusive of the estimated addition by use of the Dwelling House, if the Teacher occupies it.

8. On the termination of this Agreement the said Teacher is to receive from the Council of the said ⁶ of a proportionate share of the said salary of £⁷ calculated up to the day of the termination of this Agreement.

SIGNED the day and year first above written on behalf of the Body of Managers by the Chairman and by the Teacher.

CONSENT OF THE LOCAL EDUCATION AUTHORITY TO THE FOREGOING APPOINTMENT.

WHEREAS the Managers of the ⁵ School, in the Parish of ⁶ in the ⁵ of ⁶ have notified to us as the Local Education Authority that they have appointed ⁸ to be a teacher of the ⁹ department of the said School, and have agreed on our behalf that such Teacher should be paid by us the salary of £ the day of ⁸, the day of ⁸, the day of ⁸, and the day of ⁸, and a proportionate amount from the last of such days to the date of termination of the said Agreement¹⁰ [in addition to the right to occupy and enjoy the Teacher's Dwelling House attached to the said School, such use and enjoyment being equivalent to an addition of £ ¹⁻¹ annum to the said salary].

NOW THEREFORE WE the said Council of ⁸ as such Local Education Authority hereby consent to the said appointment and agree to pay the said salary.

IN WITNESS whereof we have hereunto caused our Common Seal to be affixed this day of 19 .

L. S.

¹ See Prefatory Memorandum, p. 568.

² See the note to §15 of the Education Act, 1902, p. 103.

Notice of Change of Staff.

75. Notice should at once be given to the Board of any change in the school staff occurring during the school year; and the date of birth of the new teacher, and the name of the school in which he or she was last employed, and of that (if any) in which he or she served as pupil-teacher, should be specified. Forms for supplying these particulars may be obtained from the Board on application.

In view of the provisions of the Elementary School Teachers Superannuation Act, 1898, attention to this rule is specially necessary in the case of certificated teachers.

CHAPTER IV.

ANNUAL GRANTS. GENERAL CONDITIONS.

Conditions of Annual Grant.

76. The conditions required to be fulfilled by a school in order to be placed or to continue on the annual grant list are those set forth in this Code. The decision of the Board whether these conditions are fulfilled in any case is final and conclusive so far as regards the payment of grants.

The terms 'annual grant' and 'annual parliamentary grant' used in this Code do not include the 'fee grant' payable under the Elementary Education Act, 1891, nor the 'aid grant' under §10 of the Education Act, 1902.

School a Public Elementary School.

77. The school must be conducted as a public elementary school and must satisfy any conditions required to be fulfilled by an elementary school in order to obtain a parliamentary grant under the Education Acts, 1870-1902.

Children not to be refused Admission.

78. No child may be refused admission as a scholar on other than reasonable grounds.

Time-Table, and Fees to be Approved.

79. The time-table must be approved for the school by the inspector on behalf of the Board, and must be open at any reasonable time, except the ordinary school hours, to the inspection of the parent of any scholar attending the school, who makes a written application to see it. In a school provided by a local authority, the consent of the Board must be given to the weekly fee (if any) charged.¹

School not to be Unnecessary.

80. The school must not be unnecessary.²

Not an Adventure or Farmed School.

81. The school must not be conducted for private profit, and must not be farmed out to the teacher.

¹ See §17 of the Elementary Education Act, 1870, p. 208.

² See §§8 and 9 of the Education Act, 1902, and the notes thereon, pp. 71 to 74.

Qualification of Principal Teacher.

82. The principal teacher must be certificated.

Exceptions:—

- (a.) A school with an average attendance of not more than 50 scholars may be conducted by a principal teacher who is provisionally certificated.
- (b.) A school with an average attendance of not more than 40 scholars may be conducted by a principal teacher who is qualified under Article 50 or 51, provided that the inspector reports (i.) that such teacher is specially fitted to take charge of the school in question, and (ii.) that the circumstances of the school are such as to make it difficult to obtain the services of a certificated teacher.
- (c.) A school already on the annual grant list may be conducted without a qualified teacher for not more than three months of the time (exclusive of the ordinary holidays) occupied by any interval or intervals in any school year, between the leaving of one and the coming of another teacher qualified under this Code to have charge of it, provided the school is kept open and the registers are duly marked during the interval.
- (d.) A school may with the special approval of the inspector be conducted by a principal teacher who is a retired army schoolmaster recommended for that purpose by the authorities of the War Office.¹

Minimum Number of Meetings.

83. A school must have met not less than 400 times in a year.

Exceptions:—

- (a.) If a school for which an annual grant is claimed for the first time has not been open for a whole year, or, if a school has been closed during the year under medical authority or for any unavoidable cause, a corresponding reduction is made from the number of meetings required by this Article.
- (b.) If school premises are temporarily used under §6 of the Ballot Act, 1872, for an election, or under any other statutory power, the number of meetings which would in ordinary course have been made had the school premises not been so used may, if necessary, be counted in making up the required number of meetings of the school.
- (c.) In the cases of Greenwich Hospital and of marine schools this Article will not be applied.²

84. [Cancelled.]³

Conditions relating to (a) Premises, Staff, Furniture, and Apparatus.

85. The Board must be satisfied:—

- (a.) That the school premises are healthy, are properly constructed and arranged for teaching, lighted, warmed, cleaned, drained and ventilated, are supplied with suitable offices, and contain sufficient accommodation for the scholars attending the school, and that the school has a sufficient staff (Article 73), and is properly provided with suitable desks and furniture, books, maps, and other apparatus of elementary instruction, and also with (a) suitable registers; (b) a portfolio to contain official letters; (c) a diary or log-book; (d) the Code and Revised Instructions for each year; (e) a book for recording minutes of managers' meetings.

The log-book must be stoutly bound and contain not less than 300 ruled pages. It must be kept by the principal teacher, who is required to enter in it from time to time such events as the introduction of new books, apparatus, or courses of instruction, any plan of lessons approved by the inspector, the visits of managers, absence, illness, or failure of duty on the part of any of the school staff, or any special circumstances affecting the school, that may, for the sake of future reference or for any other reason, deserve to be recorded.

No reflections or opinions of a general character are to be entered in the log-book.

¹ This provision is new in the Code for 1903.

² See the note to §15 of the Education Act, 1902, p. 103.

³ See Prefatory Memorandum, p. 567.

N.B.—The plans of all new school premises and enlargements must be approved by the Board before such new premises and enlargements are passed under this Article.¹ The numbers for which such new premises and enlargements are passed will be settled by the Board. Subject to the conditions laid down in the body of this Article being fully satisfied, schools already on the annual grant list will as a rule be regarded as accommodating the number of scholars for which they have been hitherto recognised by the Board, provided that in no case there shall be less than 80 cubic feet of internal space and 8 square feet of internal area for each unit of average attendance. If in the neighbourhood of any school there is a deficiency of school accommodation, which is being supplied with due despatch, the accommodation of that school may with the consent of the Board be temporarily calculated at 80 cubic feet and 8 square feet for each unit of average attendance. No room may be habitually used for a larger number of scholars than that for which it is passed by the Board :

(b.) Course of Instruction.

- (b.) That the course of instruction is in accordance with Article 15 (a) or 15 (b), and has been approved by the inspector on behalf of the Board :

(c.) Instruction of Infants.

- (c.) That, as far as relates to the grant for an infant school or class, the infants are taught suitably to their age, and so as not to interfere with the instruction of the older scholars in the same school :

(d.) Registers, Accounts, and Certificates.

- (d.) That the admission and daily attendance of the scholars are carefully registered by or under the supervision of the principal teacher, and duly verified from time to time; and that all statistical returns and certificates of character are trustworthy :²
- (e.) [Cancelled.]

School must be Efficient.

86. The school or infant class must be efficient. A school or class is regarded as satisfying this Article if the inspector does not recommend the withholding of the grant under Article 98, or Article 101 (a). The grant will not be withheld under this Article until the following conditions have been fulfilled :—

- (1.) The inspector must report the school or class inefficient and state specifically the grounds of such judgment, and the Board must, with the report, give formal warning that the grant may be withheld under this Article, if the inspector again reports the school or class to be inefficient.
- (2.) The inspector must, not less than twelve months later, and after a visit paid with due notice, again report the school or class inefficient, and again state specifically the grounds of such judgment.
- (3.) If within fourteen days after the receipt of the second adverse report of the inspector appeal is made by the managers or by the local authority against his decision, the school must be visited and such adverse report must be confirmed by another inspector.

Returns.

87. All returns called for by the Board or by Parliament must be duly made.

¹ For the rules to be observed in planning and fitting up public elementary schools, see pp. 627 to 635.

² See Schedule VII., p. 606.

Inspectors to have Timely Notice of all Closures.

87*. Notice must be sent to the inspector, as soon as is possible in each case, of every date upon which the school will be closed, or its ordinary work suspended, during the year, whether for the ordinary holidays or on any special occasion.

In the event of failure to give such notice a deduction not exceeding £1 may be made from the next annual grant.

This Article is not intended to limit the discretion of managers or local authorities in closing a school temporarily in the event of a sudden emergency.

Compliance with Order to Close School.

88. If the sanitary authority of the district in which the school is situated, or any two members thereof acting on the advice of the medical officer of health, require either the closure of the school or the exclusion of certain children for a specified time, with a view to preventing the spread of disease, or any danger to health likely to arise from the condition of the school, such requirement must at once be complied with, but after compliance appeal may be made to the Board if the requirement is considered unreasonable.

89. [Cancelled.]

90. The income of the school must be 'applied only for the purpose of public 'elementary schools' (Elementary Education Act, 1876, §20).

Students from Training Colleges to be Admitted.

91. On request from the authorities of a training college, students from the college must be allowed to attend the school for the purpose of practical instruction in teaching on such conditions as may be approved by the Board.

Power to Warn instead of Withholding Grant.

92. In cases where any of the conditions of annual grants set forth in this Code (except such conditions as are specially imposed by Act of Parliament) are not fulfilled, the Board have power, after considering all the circumstances, to pay the grant or a portion of the grant, and give a warning that the next year's grant may be withheld.

COMMENCEMENT OF GRANT.

93. The annual grant for a school begins to run, as a rule, from the first day of a calendar month nearest to the date at which the school begins to be taught by a teacher qualified under this Code to have charge of it; but if application for a grant is not made within six months after such date the Board may refuse to make a grant for any time previous to the receipt of the application.

94. Where a grant is payable for a school not maintained by a local education authority under the Education Act, 1902, which has been closed, the amount of such grant shall not, as a rule, exceed the amount of the net outstanding liabilities on current account of the school at the time of its closing.

SUBJECTS AND AMOUNTS OF GRANTS.

95. The annual grant is made up of the several grants, which, with their amounts, are enumerated in the following Articles.

98. Except where it is specially provided otherwise, the sum mentioned is the amount of a year's grant for each unit of average attendance.

A fraction of a unit, if it reaches .5, may be counted as an additional unit.

97. If the grant is paid for a period other than a year, the year's grant is increased or diminished by one-twelfth for each month more or less than a year.

This Article does not apply to grants under Articles 101 (g) to (m), and 102.

GRANTS FOR INFANT SCHOOLS OR CLASSES.

98. Grants are made for infant schools and classes under this Article ; and every school or class for which a grant is made under this Article is an infant school or class.

Only one infant class will be recognised in any department.

In an infant class in which the average attendance is less than 20, the attendances of the scholars of such class will be reckoned with those of the older scholars, and the grant on the whole average attendance will be made under Article 101 ; but it will be necessary in this case, as in that of a grant made under this Article, that the Board should be satisfied that the infants are taught suitably to their age and so as not to interfere with the instruction of the older scholars. If the Board are not satisfied of this, they may pay the grant on the average attendance of older scholars only.

A principal grant of 17s. or 16s. is made for infant schools and classes.

The Board shall decide which, if either, of these grants shall be paid after considering the report and recommendation of the inspector upon each of the following four points :—

- (a.) The suitability of the instruction to the circumstances of the children and the neighbourhood.
- (b.) The thoroughness and intelligence with which the instruction is given.
- (c.) The sufficiency and suitability of the staff.
- (d.) The discipline and organisation.

The inspector will recommend the higher grant, unless he is unable to report favourably upon the school under these heads.

The course of instruction for infant schools and classes is given in Article 15 (a).

99. [Cancelled.]

TEACHERS REQUIRED FOR THE CHARGE OF INFANT CLASSES.

100. An infant class with an average attendance of more than 50 should be in charge of a certificated teacher of its own, and an infant class with an average attendance of more than 30 should be in charge of a teacher over eighteen years of age, approved by the inspector. No grant will, as a rule, be paid for more than three months (exclusive of the ordinary school holidays) of any period during which the class has been without such a teacher.

GRANTS FOR SCHOOLS FOR OLDER SCHOLARS.

101. Grants are made for schools for older scholars under this Article, and every school for which a grant is made under this Article is a school for older scholars.

Principal Grant.

- (a.) A principal grant of 22s. or 21s. is made for schools for older scholars.
- (i.) The Board shall decide which, if either, of these grants shall be paid, after considering the report and recommendation of the inspector upon each of the following four points :—
- (a.) The suitability of the instruction to the circumstances of the children and the neighbourhood.
 - (b.) The thoroughness and intelligence with which the instruction is given.
 - (c.) The sufficiency and suitability of the staff.
 - (d.) The discipline and organisation.

The inspector will recommend the higher grant unless he is unable to report favourably upon the school under these heads.

The course of instruction for schools for older children is given in Article 15 (b).

- (ii.) The instruction should be in accordance with a syllabus, which must be produced to the inspector at his visit. The inspector may disapprove any portion of the syllabus which he considers unsuitable.

Specimen schemes of instruction suited to schools in various circumstances may be obtained on application to the Board.

- (iii.) In reporting upon the sufficiency and suitability of the staff, the inspector will have regard to the fitness of each teacher for the work allotted to him (or her).

- (iv.) In reporting upon the discipline and organisation the inspector will have special regard to the moral training and conduct of the children, to the neatness and order of the school premises and furniture, and to the proper classification of the scholars, both for teaching and examination. But he will not interfere with any method of organisation adopted in a training college, if it is satisfactorily carried out in the school. To meet the requirements respecting discipline, the inspector must be satisfied that all reasonable care is taken, in the ordinary management of the school, to bring up the children in habits of punctuality, of good manners and language, of cleanliness and neatness, and also to impress upon the children the importance of cheerful obedience to duty, of consideration and respect for others, and of honour and truthfulness in word and act.

(b.)
 (c.)
 (d.)
 (e.)
 (f.)

[Cancelled.]

Grant for Cookery.

- (g.) Where the inspector reports that special and appropriate provision is made for the practical teaching of cookery by a teacher holding a certificate recognised by the Board (*see* Schedule IV. E.), or otherwise recognised by the Board as qualified to teach that subject, a grant of 4s. may be made on account of any girl who has attended not less than 40 hours during the school year (of which not more than eight hours may be in any one week or more than four hours in any one day) at a cookery class of not more than 18 scholars, and has spent not less than 20 hours in cooking with her own hands, and not less than 14 hours in attendance at demonstration lessons. Attendances made by girls under 11 years of age will not as a rule be recognised for the purpose of this grant.

The time for cookery must be entered in the time-table, and should be not less than a continuous hour and a half at any meeting. A list of dishes taught during the school year, and the record of the instruction given at each lesson, must be submitted to the inspector at the close of the school year.

- (i.) Where the inspector reported before the 1st of May 1885 that special and appropriate provision was made for the practical teaching of cookery in a school by any teacher, the grant for cookery shall not be refused on the ground that such teacher does not hold a certificate as above mentioned.
- (ii.) For the purpose of demonstration, not more than three classes of 18 scholars may be present, provided the inspector reports that the number present may be conveniently accommodated. But for the 20 hours required for cooking with their own hands (during which time no demonstration lesson can be given), not more than 18 scholars shall be taught at the same time by one teacher.
- (iii.) This grant may also be made on account of boys over 12 years of age, who are, with the special sanction of the Board, receiving instruction in cookery in schools situated in seaport towns.

Grant for Laundry Work.

- (h.) Where the inspector reports that special and appropriate provision has been made for the practical teaching of laundry work by a teacher holding a certificate recognised by the Board (*see* Schedule IV. E.), or otherwise recognised by the Board as qualified to teach that subject, a grant of 2s. may be made on account of any girl who has attended not less than 20 hours during the school year (of which not more than eight hours may be in any one week or four hours in any one day) at a laundry class of not more than 14 scholars, and has spent not less than 10 hours in working with her own hands. Attendances made by girls under 11 years of age will not as a rule be recognised for the purpose of this grant.

The time for laundry work must be entered in the time-table. A record of the instruction and work done must be submitted to the inspector.

Not more than 42 scholars are permitted to be present at a demonstration class.

Grant for Dairy Work.

- (i.) Where the inspector reports that special and appropriate provision has been made for the practical teaching of dairy work by a teacher holding a certificate recognised by the Board (*see* Schedule IV. E.), or otherwise recognised by the Board as competent to teach dairy work, a grant of 4s. may be made on account of any girl who has attended for not less than 20 lessons, of at least 2 hours each, a class of not more than 14 scholars. Attendances made by girls under 11 years of age will not as a rule be recognised for the purpose of this grant.

The time for dairy work must be entered in the time-table, and should be not less than two continuous hours at any meeting.

Grant for Cottage Gardening.

- (k.) Where the inspector reports that special and appropriate provision has been made for the practical teaching of cottage gardening by a teacher recognised by the Board as qualified to teach that subject, a grant of 2s. (or 4s.) may be made on account of any boy who has attended not less than 20 hours (or 40 hours) at a gardening class of not more than 14 scholars. Attendances made by boys under 11 years of age will not as a rule be recognised for the purpose of this grant.

The time for cottage gardening must be entered in the time-table.

Grant for Manual Instruction.

- (l.) A grant for manual instruction of 6s. or 7s. may be made on account of any boy who has been satisfactorily taught in accordance with Schedule II.

The Board shall decide which, if either, of these sums shall be paid after considering the report of the inspector.

The inspector will not recommend the grant of 7s. unless the instruction is specially good.

Grant for Household Management.

- (m.) If a scheme of practical instruction for girls in household management, including cookery, laundry work, and practical housewifery, is submitted to and approved by the Board, a grant at the rate of 7s. per 100 hours' attendance may be made for each girl who has attended lessons given in accordance with the scheme. Attendances made by girls under 12 years of age will not as a rule be recognised for the purpose of this grant.

The scheme must provide for not less than 100 hours' instruction being given in each year for which the grant is claimed. As a rule one half of the time given to this subject must be spent in practical work by the girls. The instruction must be given in premises specially adapted for the purpose and by a teacher specially recognised by the Board as qualified to teach the subject (*see* Schedule IV. E.), and the inspector must report that the instruction and arrangements are satisfactory.

The complete course of instruction may be spread over two or more years, and in that case the grant may be claimed at the end of each year in respect of the instruction given during that year.

No grant may be claimed under Article 101 (g.), (h.), or (i.), in respect of any girl for whom the grant for household management is claimed.

The time for household management must be entered in the time-table.

N.B.—If the school year is less than twelve months, or if the school has been closed under medical authority, and it is shown to the satisfaction of the Board that the completion of the course of instruction in cookery, laundry work, dairy work, or cottage gardening has been thereby prevented, the Board may pay a part of the grants under Article 101 (g), (h), (i), and (k), proportionate to the part of the course completed in the school year.

If in any school the course of instruction follows an educational year which differs from the school year, attendance at a class for cookery, laundry work, dairy work, cottage gardening, manual instruction, or household management may be reckoned according to the educational year, and in that case the grants under Article 101 (g), (h), (i), (k), (l), and (m) will be paid with the grant for the school year in which the end of the educational year falls.

The grants under Article 101 (g) to (m) are not calculated on the average attendance.

SPECIAL GRANTS.

*Epidemic Grant.*¹

101*. Where the Board are satisfied that by reason of a notice of the sanitary authority under Article 88 or any provision of an Act of Parliament requiring the exclusion of certain children, or by reason of the exclusion under medical advice of children from infected houses, the average attendance has been seriously diminished, and that consequently a loss of annual grant would, but for this Article, be incurred, the Board have power to make a special grant not exceeding the amount of such loss in addition to the ordinary grant.

No grant will be made under this Article in respect of any diminution of attendance occurring after 31st March 1903.¹

¹ See Prefatory Memorandum, p. 668.

102. A grant of 40s. is made annually for each recognised pupil-teacher admitted from the 1st July 1900, or from any later date, provided that the inspector reports that the pupil-teacher is properly taught and diligent in his or her studies.¹

The number of grants paid for any pupil-teacher shall not exceed the number of years for which he or she was originally admitted.

Grants are made for pupil-teachers admitted from the 1st January 1900, or from any earlier date, in accordance with Article 102 of the Code of 1902.

103. [Cancelled.]

Grants for Small Populations.

104. Where the population of the parish² in which any public elementary school is situate, or the population within two miles measured according to the nearest road from the school is less than 300, and there is no other public elementary school recognised by the Board as available for that parish² or that population, as the case may be, the Board may, on the recommendation of the inspector, make a special grant, in addition to the ordinary grants, amounting, if the said population exceeds 200, to £10, and if it does not exceed 200, to £15.

105. Where the population of the parish² in which the school is situate, or the population within two miles measured according to the nearest road from the school is less than 500, and there is no other public elementary school recognised by the Board as available for that parish² or that population, the Board may, on the recommendation of the inspector, make in addition to all other grants due under this Code a special grant to the amount of £10. For the purposes of this Article the limit below which the school staff will in no case be accepted as sufficient is as follows :—

Teacher.	Number of Children in Average Attendance.
Principal,	40
Additional certificated,	40
Assistant,	30
Provisional assistant,	20
Additional (Art. 68),	20
Pupil-teacher,	20
Probationer,	10

The grant under this Article will, as a rule, be reduced by one-twelfth for every month during which the staff has not satisfied the above requirements, subject to the provisions of Articles 74 and 82 (c), as to vacancies in the course of a school year.

N.B.—The grants under the last two Articles are not calculated on the average attendance.

106. [Cancelled.]

107. [Cancelled.]

108. [Cancelled.]³

109. [Cancelled.]³

¹ See Prefatory Memorandum, p. 568, under the heading 'Epidemic Grant.'

² For 'parish' read 'school district' (Elementary Education Act, 1870, §§4 and 40), in the case of areas where the Education Act, 1902, is not operative.

See note 3 to Schedule III. (1) of that Act, p. 179.

³ See Prefatory Memorandum, p. 568, under the heading 'School Staffing.'

CHAPTER V.

HIGHER ELEMENTARY SCHOOLS.¹

110. A public elementary school may be recognised by the Board as a higher elementary school under the following conditions :—

(1.) The school must be organised to give a complete four years' course of instruction approved by the Board.

(2.) A child proposed for admission to a higher elementary school must—

- (i.) Be not less than ten years of age at the date of admission ;
- (ii.) Have, as a rule, been for at least two years under instruction at a public elementary school ;
- (iii.) Be shown to the satisfaction of the inspector to be qualified to profit by the instruction offered in the higher elementary school.

(3.) The inspector must be satisfied of the fitness of any child to continue, or to be promoted from one year's course to another, in a higher elementary school.

(4.) (i.) Attendances may not be recognised in a higher elementary school for any scholar who is upwards of fifteen years of age.¹

(ii.) No scholar may remain in a higher elementary school beyond the close of the school year in which he or she is fifteen years old.¹ But scholars who are receiving instruction in a school at the time of its conversion into a higher elementary school, may remain with the sanction of the Board of Education.

(5.) Scholars newly admitted into a higher elementary school must, except with the express sanction of the inspector, commence with the first-year course.

This rule does not apply to scholars who are receiving instruction in a school at the time of its conversion into a higher elementary school.

(6.) The number of scholars in a higher elementary school will, as a rule, be limited to about 350, except in the case of a school of science converted into a higher elementary school.

(7.) (i.) The school must be shown, to the satisfaction of the Board, to be necessary, having regard to the circumstances of the particular locality.

(ii.) The premises must be specially equipped for practical instruction, and must be recognised by the Board as suitable for the purposes of a higher elementary school.

(8.) (i.) The teachers must be qualified under Articles 50, 51, or 60, and their recognition will not be continued if the inspector is unable to report favourably on their qualifications. An assistant teacher engaged to teach science must possess a special qualification recognised by the Board.

Persons recognised under previous Codes as head or assistant teachers may continue to be so recognised subject to the favourable report of the inspector.

(ii.) No member of the teaching staff may undertake duties not connected with the school which may occupy any part whatever of the school hours.

(iii.) The numbers of a class should be, as a rule, confined to 35, and may not exceed 40. There must be a teacher for every class, and a laboratory should be, as a rule, in charge of a teacher of its own.

(9.) Before a school can be recognised as a higher elementary school, a curriculum and time-table must be submitted for the approval of the Board, and such other information as the Board may require must be supplied. The curriculum must be approved by the Board, and must show that a sufficiency of science instruction, both practical and theoretical, is provided for in each year.

¹ See note 3 to §22 (2) of the Education Act, 1902, p. 145.

(10.) The grants made for higher elementary schools are as follows :—

	Higher Scale.	Lower Scale.
	<i>£.</i>	<i>£.</i>
1st year	35	31
2nd year	47	43
3rd year	65	55
4th year	90	73

The Board shall decide which, if either, of these grants shall be paid, in the case of each year's course, after considering the report and recommendation of the inspector upon each of the following four points :—

(a.) The suitability of the instruction to the circumstances of the scholars and the neighbourhood.

(b.) The thoroughness and intelligence with which the instruction is given.

(c.) The sufficiency and suitability of the staff.

(d.) The discipline and organisation.

The inspector will recommend the higher grant unless he is unable to report favourably upon the school under these heads.

(11.) (i.) The sum named in §10 of this Article is in each case the amount of a year's grant for each unit of average attendance.

(ii.) For the purpose of reckoning the average attendance at a higher elementary school an attendance shall mean attendance during two and a half hours.

(12.) No grant may be received from the Board for any higher elementary school in addition to the grants named in §10 of this Article, with the exception of the fee grant.

(13.) Separate registers must be kept for the higher elementary school.

(14.) No scholar may attend a higher elementary school who is attending an evening school or class under the regulations of the Board.

(15.) The other Articles of this Code are applicable to higher elementary schools, except so far as a contrary intention appears from the terms of this Article.

PART II.—TRAINING COLLEGES.¹

RESIDENTIAL AND DAY TRAINING COLLEGES.

111. A training college is an institution either for boarding, lodging, and instructing, or for merely instructing students who are preparing to become certificated teachers in elementary schools. The former are called residential, the latter day training colleges. A residential college may receive day students. Training colleges are required to include, either on their premises or within a convenient distance, a practising school in which the students may learn the practical exercise of their profession.

Training colleges must be open at all reasonable times to the inspection of the Board.

An institution for boarding, lodging, and instructing blind students who are preparing to become teachers in schools for the blind, may be recognised as a training

¹ See §22 (8) of the Education Act, 1902, p. 143.

college. Grants will be paid to such a college on the same conditions, so far as circumstances permit, as those laid down for an ordinary residential training college.

112. A day training college must be attached to some university or college¹ of university rank. The authorities of a day training college must be a local committee, who will be held responsible for the discipline and moral supervision of the students, for due care as regards their board and lodging, and for their regular attendance at professorial or other lectures.

Conditions of Grant.

113. No grant is made for a training college unless the Board are satisfied with the premises, management, staff, curriculum, and general arrangements, and recognise it as a training college.

ADMISSION INTO TRAINING COLLEGES.

King's Scholars.

114. The recognised students in a training college are called King's Scholars.

Qualifications for Admission.

115. The authorities of a training college may propose to the Board for admission as King's Scholar—

- (a.) any candidate who has obtained a place in the first or second class at the last or last but one preceding King's Scholarship Examination (Articles 46 and 47);
- (b.) any certificated teacher who has not previously been trained during two years, and who wishes to enter the college for a year's training, in the course prescribed for students of the second year;
- (c.) any graduate, or person qualified by examination to become a graduate, in arts or science of any university in the British Empire recognised by the Board for the purposes of this Article, who wishes to enter the college for a year's training;
- (d.) any candidate over eighteen years of age who has passed, since the 1st January 1901, one of the examinations approved by the Board for this purpose (*see* Schedule IV. D.).

The Board may limit in the case of any training college the number of candidates admitted under each paragraph of this Article.

Number of Day Students.

116. The number of day students to be admitted to each training college will be fixed by the Board upon receipt of an application from the authorities of such college dated not later than the 1st of June in each year and stating the number of students that they desire to admit.

Conditions of Admission.

117. Before candidates are admitted—

- (a.) The medical officer of the college must certify that the state of their health is satisfactory, and that they are free from serious bodily defect or deformity; and,
- (b.) They must sign a declaration that they intend *bonâ fide* to adopt and follow the profession of teacher in a public elementary school, or in a school certified under the provisions of the Elementary Education (Blind and Deaf Children) Act, 1893, or in a central class for pupil-teachers, or in a training college, or in the army or navy, or (within Great Britain) in poor-law schools, certified industrial or day industrial schools, or certified reformatories.

¹ As to the Treasury Grant to University Colleges, *see* p. 749.

Other Conditions laid down by College Authorities.

118. The Board may refuse to recognise in a training college any student who has subsequently to the publication of the list of King's Scholars signed an engagement to enter another training college, without the written consent of the authorities of the latter college. In other respects the authorities of each college settle their own terms of admission.

Non-fulfilment of Conditions.

119. Upon proof by the authorities of any college that candidates have not fulfilled the conditions signed by them on admission into the college, the Board may refuse to grant parchment certificates to such candidates, or to recognise them as certificated teachers.

Period of Training.

120. The period of training is ordinarily two years, except for students admitted under Article 115 (b.) or (c.). But an additional year's training may be allowed on the application of the authorities of the college proposing to admit the student to such training. The consent of the Board will only be given in the case of students of special merit, for whom special educational facilities are offered. Such additional year's training may with the like application and consent be taken, in whole or in part, at the college itself or elsewhere.

Students of special merit may on the application of the authorities of their training college, and with the consent of the Board, be allowed to take their second year of training, in whole or in part, in an institution for training teachers of the deaf approved by the Board for the purpose.

Students who pass successfully through two or three years of training receive special mention thereof on their certificates.

For the purposes of this Article the period from January to June 1895 is counted as one year.

EXAMINATION OF STUDENTS IN TRAINING COLLEGES.

121. Students who are King's Scholars and are qualified to attend the examination for certificates (Articles 55-57*) are required to attend such examination, unless prevented by illness or other cause approved by the Board.

GRANTS TO TRAINING COLLEGES.¹

Grants for Teachers Trained Two Years.

122. Grants are placed to the credit of each residential college of £100 for every master, and of £70 for every mistress, who, having been trained in such college as a resident King's Scholar, and of £30 for every master and every mistress, who, having been trained in such college as a day King's Scholar, during two years, is recognised as a certificated teacher, and completes the prescribed period of probation and obtains a parchment certificate (Article 63).

An additional grant of half of each of the above amounts is placed to the credit of the college on account of each such master or mistress who has received an additional year's training under Article 120.

For Teachers Trained One Year.

123. Teachers who have been trained for one year only may, if they satisfy the requirements of Article 60, obtain parchment certificates after probation, or may be

¹ In a circular dated the 22nd December 1902 the Board of Education wrote:—

'It is intended that the whole system of the grants to training colleges should shortly be remodelled, and considerable changes will probably be made next year, with a view to placing the organisation for the training of elementary school teachers and the Exchequer contributions thereto upon a sound educational and financial basis.'

reported by the proper department, upon the same terms as others; and grants, of half the amounts specified in Article 122, may be placed to the credit of the college in which they were trained, provided they entered the college as King's Scholars for training in the course prescribed for students of the second year under Article 115 (b) or Article 115 (c) of this Code or the corresponding Article of any previous Code.

124. The annual grant for each residential college is paid out of the sums standing to its credit (Articles 122, 123) at the beginning of the year, after the adjustment under Article 126 (c)

Exception :—

In the case of a new college, or (subject to the approval of the Board) of an extension of a college, the grants for the first five years are paid without reference to the sums standing to the credit of the college.

The annual expenditure of the college in respect of such extension must be approved by the Board and certified in such a manner as the Board may require.

Limitation of Grant to Residential Colleges.

125. Except as provided by Article 128, the annual grant for a residential college must not exceed—

- (a.) 75 per cent. of the expenditure of the college for the year, approved by the Board and certified in such manner as the Board may require.
- (b.) £50 for each man, and £35 for each woman, in residence as a King's Scholar, and £10 for each day student enrolled, for continuous training as a King's Scholar throughout the year for which it is being paid.

In the case of third year students studying elsewhere than at the college, and in receipt of an allowance from the college approved by the Board, 75 per cent. of such allowance will be substituted for the sums of £50 and £35.

Instalments of Grant.

126. The annual grant for each residential college is paid as follows :—

- (a.) (i.) An instalment of £12 (men), or £8 (women) is paid on 1st October, 1st February, and 1st May, in respect of every King's Scholar in residence for continuous training throughout the year. (ii.) An instalment of £2 is paid on 1st October, 1st February, and 1st May, in respect of every day student enrolled for continuous training as a King's Scholar throughout the year.
- (b.) Part of the instalment of the 1st of May may be suspended if payment of the full amount then due would cause the limit under Article 124 or Article 125 (a) to be exceeded.

Adjustment.

- (c.) The balance is adjusted as soon as the college accounts for the year have been closed, audited, and approved by the Board.

Grants to Day Colleges.

127. (a.) In day training colleges a grant will be made annually, through the local committee, of £25 to each man, and of £20 to each woman King's Scholar, and a grant of £10 to the committee in respect of each King's Scholar enrolled for continuous training throughout the year.

N.B.—Grants of corresponding amounts will be made to day King's Scholars who attend a residential college, but the grant to the authorities of a residential college in respect of such day King's Scholars will be made under Articles 124, 125, and 126, and not under this Article.

(b.) These grants will be paid to the local committee in three instalments, upon a certified list of the King's Scholars enrolled for continuous training throughout the year, and attending lectures at the university or college to which the day training college is attached, viz. :—

- (i.) An instalment of £11 (men), or £9 (women), on the 1st October, or as soon as the certified list of the King's Scholars has reached the Board, and on the 1st February ;

- (ii.) An instalment of £13 (men), or £12 (women), on the 1st May. Out of these sums the committee will pay to each King's Scholar on the 1st October, or as soon as the grant has been received, and the 1st February, £8 (men), or £6 (women), and on the 1st May, £9 (men), or £8 (women).

N.B.—The grants to day King's Scholars attending a residential training college will be paid through the committee under this Article.

(c.) The local committee will be required to produce to the Board as soon as possible after the 31st July in each year, an account of their income and expenditure in such form as may be prescribed by the Board. The accounts shall (*inter alia*) include the grants for the King's Scholars, and the payments by the committee to them.

128. Separate grants for drawing and science are made at the following rates to training colleges for every student who has satisfactorily passed through an approved course in—

- (a.) Drawing, 10s.
- (b.) Mathematics or Theoretical Mechanics, 25s.
- (c.) Any other Science subject, 35s.
- (d.) General Elementary Science only, and no other science subject, from 35s. to 55s., according to the report of the inspector upon the science equipment of the college, upon the facilities provided for adequate scientific instruction, upon the amount and character of the practical work of the students in the course, and upon the quality of the scientific instruction given.

These grants will be in addition to the grant at present payable under Articles 122–127; but in determining the limit of grant under Article 125 (a), the cost of the instruction in science and drawing will be excluded from the certified expenditure, except so far as the cost of instruction in either science or drawing can be shown to be in excess of the grant for science or drawing paid or payable for the same period.

Grants for Shortened Year 1895.

129. The following table shows the amounts of the grants that, in consequence of the change of date of the Certificate Examination, will be made instead of those specified in the Code, in the case of students in residential colleges—

- A. Whose first or second year of training included the period from January to June 1895.
- B. Whose third year (Art. 120) or single year (Art. 115 (b.)) of training consisted of the same period.

	Grant placed to Credit of College (Art. 122 or 123) on account of		
	(i.) Men (Resident).	(ii.) Women (Resident).	(iii.) Day Students in Residential Colleges.
A.	£ 75	£ s. 52 10	£ 15
B.	25	17 10	5

PART III.

PENSIONS.

130. A limited number of pensions will be granted to certificated teachers who were employed as teachers, or were recognised students in any training college, at the date (9 May 1862) when the Minutes¹ relating to pensions were cancelled.

No application for a pension under this Article will be entertained unless it is made before the 1st April 1906.

(1.) An applicant for a pension must—

(a.) Be, as a rule, a teacher employed in a public elementary school, in a school certified under the provisions of the Elementary Education (Blind and Deaf Children) Act, 1893, training college, or central class for the instruction of pupil-teachers, or as an organising teacher, at the time when the pension is applied for.

(b.) Have become incapable, from age or infirmity, of continuing to teach a school efficiently.

(c.) Have, as a rule, been employed continuously since the 9th of May 1862, as principal or assistant teacher in elementary schools, training colleges, or central classes for the instruction of pupil-teachers, or as an organising teacher.

(d.) Be recommended by the inspector, and have received satisfactory certificates of service.

(e.) Be 60 years of age (if a man), or 55 (if a woman), unless the pension is applied for on the ground of failure of health.

(2.) As a rule, pensions will be granted to those teachers only who have been, during the seven years preceding the application on their behalf, employed in school or colleges under inspection.

(3.) [Cancelled.]

(4.) The applications will be collected for decision, on their comparative merits, twice a year, about Lady Day and Michaelmas.

(5.) Teachers who entered on the charge of a school before 1851 will be regarded *ceteris paribus*, as having the first claim.

(6.) The maximum number and value of pensions receivable at one time, in England and Wales, will be as follows :—

947	{	66 pensions of £30 each	£1,980
		363 pensions of £25 each	9,075
		518 pensions of £20 each	10,360
			<hr/>
		Donations or special gratuities (<i>each year</i>)	340
			<hr/>
			£21,755

But this limit of the number of pensions will not affect the claims of teachers who were employed or were recognised students in any training college before August 1851.

(7.) The pension will be paid quarterly or half-yearly (at the option of the pensioner), on certificates proving identity and good behaviour.

(8.) No person will be eligible for a pension under this Article who has accepted the Elementary School Teachers' Superannuation Act, 1898.²

¹ Minutes of 25th August and 21st December 1846, and 6th August 1851.

² See p. 718.

Provided that, if a person who has accepted the Act is proved to the satisfaction of the Board to be unable to qualify for an allowance under the Act, he may be granted a pension under this Article not exceeding £20 per annum.

(9.) No person who completed the 65th year of his age before the 1st April 1901, will be granted a pension under this Article unless an application for a pension is made on his behalf before the 1st April 1902.

(10.) No person who was under 65 years of age on the 1st April 1901, will be granted a pension under this Article unless an application for a pension is made on his behalf within three months of his attaining the age of 65.

(11.) A teacher over 65 years of age to whom a pension is granted under this Article will not be recognised as a certificated teacher unless the Board on account of his special fitness allow his service to continue for a limited time. Application for the service of a teacher to continue may be made at the same time as the application for a pension. Such permission, if granted, will as a rule be granted for periods not exceeding one year at a time.

PART IV.

131. [Cancelled.]

132. [Cancelled.]

133. The Schedules annexed to the Code have the same effect as the Articles of the Code.

Given under the Seal of Office of the Board of Education this 16th day of March, in the year One thousand nine hundred and three.

L.S.

ROBERT L. MORANT.

SCHE

STANDARDS OF EXAMINATION

The Schemes A. and B.

—	STANDARD I.	STANDARD II.	STANDARD III.
Reading.	To read a short passage from a book not confined to words of one syllable.	To read a short passage from an elementary reading book.	To read a passage from a reading book.*
†Writing.	Copy in manuscript characters a line of print, commencing with a capital letter.	A passage of not more than six lines, from the same book, slowly read once, and then dictated word by word. In the Second, Third, and Fourth Standards (1) the examination in Spelling may be separated from the exercise in Writing, and an examination in word-building leading to correct spelling may be substituted for the examination in spelling; (2) simple exercises in composition, or transcription if accompanied by word-building, may be substituted for dictation.	Six lines from one of the reading books of the Standard, slowly read once, and then dictated.
‡Arithmetic . (Scheme A.), OR	Notation and numeration up to 1000. Simple addition and subtraction of numbers of not more than three figures. In addition not more than five lines to be given. The multiplication table to 6 times 12.	Notation and numeration up to 100,000. The four simple rules to short division. The multiplication table and the pence table to 12s.	The former rules, with long division. Addition and subtraction of money.
†Arithmetic (Scheme B.),	The four simple rules. Divisors and multipliers not exceeding 6. No number higher than 99 to be employed in the questions or required in the answers.	Compound rules (money). Divisors and multipliers not exceeding 12. Sums of money in the questions and answers not to exceed £10.	Simple rules and compound rules (money). Divisors and multipliers not exceeding 99. No number higher than 99,999 to be employed in the question or required in the answer. Sums of money in the questions and answers not to exceed £99.

H.B.—In Welsh districts—

- (a) Bilingual reading books may be used, and the
- (b) Translation into English of an easy piece of Welsh
- (c) In the Arithmetic set to Standards I.-IV. inclusive

* Reading with intelligence will be required in all the Standards, and increased fluency and expression in successive years. The Inspector may examine from any of the books in use in the Standard, and in Standard III. and upwards, from any book or passage suitable for the purpose which he may select. The intelligence of the reading will be tested partly by questions on the meaning of what is read.

† The writing and arithmetic of Standards I. and II. may be on slates or paper, in Standard III. and upwards it must be on paper.

‡ The Inspector may examine scholars in the work of any Standard lower than that in which they are presented, and in arithmetic may require the scholars of the Fourth Standard and upwards to add columns of pounds, shillings, and pence, within a specified time, in order to show readiness and accuracy.

Note to Schedule I.—See Article 30 of the Code (p. 574), byelaw 5 in the Model Form of Byelaws (p. 332), and regulation 4 of the Revised Regulations of 21st March 1901 (p. 342).

DULE I.

IN THE ELEMENTARY SUBJECTS.

are alternative.

STANDARD IV.	STANDARD V.	STANDARD VI.	STANDARD VII.
To read a passage from a reading book, or history of England.*	To read a passage from some standard author, a reading book, or a history of England.*	To read a passage from one of Shakespeare's historical plays, or from some other standard author, or from a history of England.*	To read a passage from Shakespeare or Milton, or from some other standard author, or from a history of England.*
Eight lines of poetry or prose, slowly read once, and then dictated.	Writing from memory the substance of a short story read out twice; spelling, handwriting, and correct expression to be considered.	A short theme or letter on an easy subject; spelling, handwriting, and composition to be considered.	A theme or letter. Composition, spelling, and handwriting to be considered.
Compound rules (money) and reduction of common weights and measures.§ In the Table of Length only yards, feet, and inches will be required in this and in the Fifth Standard.	Practice, bills of parcels, and single rule of three by the method of unity. Addition and subtraction of proper fractions, with denominators not exceeding 12. Common weights and measures.‡	Fractions, vulgar and decimal; simple proportion and calculation of simple interest upon a given principal. [Questions involving recurring decimals will not be put to girls.] Common weights and measures.‡ Mensuration of rectangles and rectangular solids; the extraction of square and cube roots is not required. (Boys only.)	Averages, percentages, and stocks.
Compound rules applied to the following weights and measures (length, weight, capacity, time). In length, yards, feet, and inches; in weight, tons, cwt., qrs., lbs., ozs.; in capacity, gallons, quarts, pints; in time, days, hours, minutes, seconds—are the only terms that will be required in this and in the Fifth Standard. Divisors and multipliers not to exceed 99.	Vulgar fractions (simple fractions only). Practice. Bills of Parcels. Common weights and measures.‡	Decimal fractions (excluding recurring decimals). Simple proportion or single rule of three by the method of unity. Calculation of simple interest upon a given principal. Common weights and measures.‡ Mensuration of rectangles and rectangular solids; the extraction of square and cube roots is not required. (Boys only.)	Vulgar and decimal fractions. Averages and percentages. Investments of savings. Consols.

examination generally may be bi-lingual.
shall, if so desired, be substituted for Composition.
the problems should be in both English and Welsh.

§ The tables to be learned include those weights and measures only which are in ordinary use, viz. :—
 In all Standards above the Third (except as to certain restrictions noted under Standard IV.) the tables of—
 In Standards VI. and VII., but for Boys only, in addition to the foregoing, the

Weight.—The ton, hundredweight, quarter, stone, pound, ounce, and drachm.
 Length.—The mile, furlong, rod or pole, chain, yard, foot, and inch.
 Capacity.—Quarter, bushel, peck, gallon, quart, and pint.
 Time.—Year, month, week, day, hour, minute, and second.
 Area.—The square mile, acre, rood, square pole or perch, yard, foot, and inch.
 Volume.—The cubic yard, foot, and inch.

The work of girls will be judged more leniently than that of boys, and, as a rule, the sums set will be easier.
 Acquaintance with the principles of the metric system, and the advantages to be gained from uniformity in the method of forming multiples and sub-multiples of the unit, is required in Standards IV., V., VI., and VII.

SCHEDULE II.

MANUAL INSTRUCTION.¹

1. The Board must be informed as soon as Manual Instruction is commenced in connection with a school.

The conditions of a grant for Manual Instruction are as follows :—

- (a) The Manual Instruction classes must be carried on continuously throughout the whole of the school year for at least two hours weekly. It is recommended that on the days when Manual Instruction is taken, it should extend over the whole time of a school meeting (exclusive of the interval for recreation prescribed by Article 12 (c), even if that exceeds two hours.
 - (b) Every scholar for whom a grant is claimed must have received manual instruction for at least two hours a week for not less than twenty weeks during the school year.
 - (c) The instruction must be in the use of the ordinary tools employed in handicrafts in wood or metal.
 - (d) It must be given in a properly fitted workshop, wholly devoted to manual instruction.
 - (e) It must be connected with instruction in drawing—that is to say, the work must be from drawings to scale previously made by the scholars under the personal supervision of the manual instructor.
 - (f) Of the two hours (or more) a week, half an hour may be given to the above special instruction in drawing, and one and a half hours at least must consist of practical work at the bench.
 - (g) Attendances of scholars under twelve years of age are not recognised for grant unless they were qualified to attend manual instruction under the Code of 1900, and began such instruction prior to the 1st May 1901.
2. Manual instruction should be given if possible by a teacher holding the certificate of the City and Guilds of London Institute, or one of the Teachers' Certificates for Woodwork and Metal Work of the Board of Examinations for Educational Handwork, or some other qualification recognised by the Board, but such qualification will not for the present be insisted on as a condition of the grant being paid. The instruction may be given by one of the regular teachers of the school or centre at which the manual instruction is given, if he is sufficiently qualified; if not, he must be assisted by a skilled artisan, and care must be taken to make such arrangements as will insure the maintenance of good order and discipline.
3. For the practical work at the bench, there must be at the least one instructor for every twenty scholars present.
4. The work of the class will be judged by an inspector at a visit or visits which he will make in the course of the school year, generally without notice.
- Early notice should be sent to the inspector of any alteration of the time or times as provided in the time-table for manual instruction, and also of times when the class may have to be closed for any special reason.
5. A special register of the school, or of the centre, if the instruction is given in a central school, or workshop, must be kept.
- Suggestions for a course of manual instruction may be obtained from the Board on application, as also the rules for building Manual Instruction Centres.

¹ This Schedule has been revised and amended since last year (Prefatory Memorandum, p. 569).

SCHEDULE III.

PHYSICAL TRAINING.²

(See Article 15 (a) and (b), and the *N.B.* paragraphs of that Article.)

1. Physical Training should be regarded as one of the most important parts of the Elementary School Course. The object in view should be the healthy development of a child's frame and muscles, and not merely the acquisition of smartness and dexterity in the performance of particular forms of drill. The training should be made as interesting and varied as possible.
2. The exercises should be carefully graded, and should be adapted, as far as possible, to the age, sex, and physique of each class in the school.

² This Schedule has been revised and amended since last year (Prefatory Memorandum, p. 569), and it is understood that some modification of the Model Course recommended in paragraph 5 is under consideration.

3. In schools where the rooms are small, the playground unsuitable, or the staff untrained or ill-adapted for the purpose, it is, of course, impossible to carry out the training so thoroughly as in large and well-equipped schools. In view of these difficulties, the inspectors are instructed to press upon local education authorities the need of improving the conditions of the schools in these very important respects, and of engaging, for the purpose of physical training, competent men or women instructors outside the school staff, wherever this training, from whatever reason, cannot be properly given by the regular school staff.

4. As a general rule it is desirable that the regular teachers of the school, to whom the children are accustomed, should give the physical training. Teachers should accordingly be encouraged to attend training courses conducted by approved instructors, so as to become proficient in this important part of the elementary school work. For the same reason, local authorities should be advised to organise central classes, for women as well as for men teachers; and training colleges for either sex should make proper provision for all their students in this respect.

5. The 'Model Course of Physical Training' issued by the Board in 1901, and obtainable from Messrs. Eyre and Spottiswoode, East Harding Street, Fleet Street, E.C., may be taken as a general guide for all courses of physical exercises in the upper classes of elementary schools. Alternative courses, more specially planned for boys' or for girls' classes, or to meet difficult conditions occasionally attaching to rural schools at the present time, may be submitted for the approval of the inspector, where circumstances render it desirable. Introductory courses for younger children may be submitted in the same way. No courses, however, may be adopted by managers which the inspector cannot approve as based on sound hygienic principles, as suitable to the age and sex of the particular scholars for whom they are intended, and as calculated to develop properly and harmoniously the various parts of the body.

6. The course of physical training should be carried on continuously throughout the school year for not less than one hour in each week for each class, and for not more than one half-hour for each class on any one day. The instruction should not occupy any part of the time given to recreation (Article 12 (e)).

7. The instruction should, wherever possible, be carried on in the open air. Where outdoor space is not available, it should be given in the central hall, and, where there is no central hall, it is recommended that a room should, if possible, be cleared for the purpose. The instruction should not be given (if it can possibly be avoided) while the children are at the desks, since each child should be able to move every limb to its fullest extent without fear or possibility of striking any person or object.

8. The utmost promptitude, and the most precise and vigorous movement should be aimed at. In the lower classes, in which correct position and movement can only be secured by individual attention, the number of children under the instruction of any single teacher at any one time should be small. In the higher classes the number under instruction at the same time may be considerable, provided the teacher is competent.

9. Teachers in many schools have devoted themselves most successfully to organising regular games for the scholars out of school hours, such as cricket and football. These are a most desirable supplement to, though from their nature they cannot be regarded as a substitute for, physical training in the strict sense. Such efforts should be encouraged in every way. While games cannot be recognised under the school time-table of instruction, in respect of which grants are paid by the Board, they are of the utmost importance in the school life of the child, and are moreover of great value in improving not only the physique of the scholars but also what may be called the "tone" of the school.

SCHEDULE IV.

EXAMINATIONS AND CERTIFICATES RECOGNISED FOR SPECIAL PURPOSES.¹

A.

The following examinations are recognised by the Board under Articles 35 and 40.

1. The Oxford Local Examination for Junior Students.
2. The Cambridge Local Examination for Junior Students.
3. The Examination for Second Class Certificates of the College of Preceptors.
4. The Junior Certificate Examination of the Central Welsh Board.

Other examinations may be recognised from time to time by the Board for the purposes of Articles 35 and 40 if the Board are satisfied that they provide adequate tests of the fitness of the candidates for their subsequent education and training as pupil-teachers.

¹ This Schedule has been revised and enlarged since last year (Prefatory Memorandum, p. 569).

B.

The following examinations are recognised by the Board under Article 41 (f) and Article 51 (b).

1. The Higher Certificate of the Oxford and Cambridge Schools Examination Board (provided that the candidate has passed in English or History).
 2. The London University Matriculation Examination.
 3. The Victoria University Preliminary Examination.
 4. The Birmingham University Matriculation Examination.
 5. The University of Wales Matriculation Examination.
 6. The Durham University Examination for certificate of proficiency in general education (provided that the candidate has passed in History or Geography).
 7. The Examination for the Vice-Chancellor's Certificate of the Oxford University Extension.
 8. The Cambridge University Extension Examination for certificates of affiliation to the University.
 9. The Cambridge University Examination for the Vice-Chancellor's Certificate of Systematic Study, including the examination in mathematics and language.
 10. The Oxford University Higher Local Examination.
 11. The Cambridge University Higher Local Examination.
 12. The Oxford University Local Examination for Senior Students (provided that English is included among the groups in which the candidate has passed).
 13. The Cambridge University Local Examination for Senior Students (provided that English is included among the groups in which the candidate has passed).
 14. The Durham University Local Examination for Senior Students (provided that (1) English, including either Literature or History, and (2) Euclid or Algebra are among the subjects in which the candidate has passed).
 15. The College of Preceptors Examination for the Diploma of Associate.
 16. The First-Class Certificate of the College of Preceptors (provided that the candidate has passed in (1) English History or Geography, and (2) in Euclid or Algebra).
 17. The Senior Certificate Examination of the Central Welsh Board (provided that the candidate has passed in (1) Elementary Mathematics, and (2) in English Literature or History).
 18. The Leaving Certificate Examination of the Scotch Education Department, provided that a Higher Grade Certificate is obtained in at least three subjects (of which one must be English, including History and Geography, one Mathematics, or, for girls, Higher Arithmetic, or Lower Mathematics with Higher Arithmetic, and one an ancient or modern foreign language).
 - *19. The Edinburgh University Local Examination for Senior Certificate.
 - *20. The Aberdeen University Local Examination for Senior Certificate.
 - *21. The Aberdeen Higher Certificate for Women.
 - *22. The St. Andrews L.L.A. Examination for Women.
- * Provided that in each of the examinations 19-22 above the certificate obtained includes a pass in at least three subjects, of which one must be English (including History and Geography), one Mathematics, or, for women, Higher Arithmetic, and one an ancient or modern foreign language.
23. The Royal University of Ireland Matriculation Examination.
 24. The Trinity College Dublin Matriculation Examination.
 25. The Trinity College Dublin Examination for Women for Certificates of Dublin University.
 26. The London University School-leaving Certificate Examination.
 27. (*For Teachers in Infants Schools or Classes only.*) (a) The Examination for the Elementary or Higher Certificate of the National Froebel Union. (b) The first-class certificate of the Manchester Kindergarten Association.

C.

The following Certificates in the Theory and Practice of Teaching are recognised by the Board under the proviso to Article 60 (b).

1. The Diploma of the University of Oxford in the Theory, History, and Practice of Education.
2. The Certificate of the University of Cambridge in the Theory, History, and Practice of Teaching, if accompanied by the Certificate of Practical Efficiency in Teaching.
3. The Teacher's Diploma of the University of London.
4. The Durham University Certificate of the Theory and Practice of Teaching.
5. The Teacher's Diploma of the Victoria University.
6. The Diploma of Associate, Licentiate, or Fellow of the College of Preceptors, if accompanied by the Special Certificate of ability to teach.
7. Schoolmaster's Diploma granted to graduates by the University of Edinburgh.
8. The Diploma of the University of Dublin in Theoretical and Practical Teaching.

D.

The following examinations are recognised by the Board for the purpose of Article 115 (d).

1. The Higher Certificate Examination of the Oxford and Cambridge Schools Examination Board in subjects approved by the Board.
2. The Oxford University Higher Local Examination.
3. The Cambridge University Higher Local Examination.
4. The London University Matriculation Examination.
5. The Victoria University Preliminary Examination.
6. The Birmingham University Matriculation Examination.
7. The University of Wales Matriculation Examination, if the candidate passes in all five subjects at one examination.
8. The Oxford University Senior Local Examination (Honours) in subjects approved by the Board.
9. The Cambridge University Senior Local Examination (Honours) in subjects approved by the Board.
10. The Senior Certificate Examination of the Central Welsh Board, if the certificate is obtained in such and so many subjects in combination as are recognised by the University of Wales as equivalent to the Matriculation Examination of the University.
11. The Royal University of Ireland Matriculation Examination.
12. The School-leaving Certificate Examination of the University of London.
13. The Durham University Senior Local Examination (Honours) in subjects approved by the Board.
14. Any corresponding or higher examination approved for the purposes by the Board.

The remaining division E of this Schedule contains a list of the training schools of cookery, laundry work, dairy work, and household management, the certificates of which are recognised by the Board under Article 101 (g), (h), (i), and (m).

SCHEDULE V.

This Schedule contains particulars of the certificates and examinations required from candidates for admission as pupil-teachers.

SCHEDULE VI.

CLAUSES REQUIRED IN ALL ENGAGEMENTS OF PUPIL-TEACHERS.¹

1. The pupil-teacher shall serve in school under the head-teacher during some portion of the usual school hours, but not for more than five hours on any one day, nor for more than twenty hours in any one week. Sunday is expressly excluded from the engagement.
2. The engagement shall begin on the first day of ^{January} or July 19 and shall end on the last day of December 19 : provided that
 - (a) the engagement shall determine, if the pupil-teacher enters a training college as a King's Scholar before the last-mentioned date ;
 - (b) the engagement may by mutual consent be extended for one year if the pupil-teacher defers the final examination under Article 41 (f) of the Code.
3. The pupil-teacher shall receive throughout the engagement, from a certificated teacher or other qualified teacher approved by the Board, special instruction in the subjects required for the final examination prescribed under Article 41 (f). Such instruction shall be given for at least five hours in each week, but not more than three hours on any one day on which the pupil-teacher serves in the school.

¹ See Prefatory Memorandum, p. 567, under heading 'Teachers' and Pupil-teachers' Agreements.'

SCHEDULE VII.

SCHOOL RECORDS.¹

1. The Code requires that schools shall be furnished with suitable registers, a diary or log-book, and a school portfolio. These books are the property of the school. The name of the school, and in the case of registers, that of the department or class, should be distinctly written on the cover of each register. The entries must be original and not copied. They must be made in ink, without erasures or insertions. If it is necessary to make any correction, this should be done in such a manner that the original entry and the alteration made are both clear on the face of the record. The entries should be consecutive, with no blank spaces left between them. Registers should be preserved for ten years after they are filled.

2. The registers required for every school or department are:—

- (a) A register of admission, progress, and withdrawal.
- (b) Attendance registers.
- (c) A register of summaries.

The pages of these registers must be numbered consecutively. Each register should be signed on the title-page by the correspondent of the school, with the date at which it was supplied to the teacher. No leaf should be withdrawn from, or inserted in, any register. The head teacher of a school or department is held responsible for the proper keeping of the records of that school or department, and should not delegate to any subordinate the keeping of any of these registers, except those of attendance. Pupil-teachers who have completed their first year may register the attendance of their own classes; but a first-year pupil-teacher may not be employed in registration.

3. The managers are held responsible for the efficient verification of the registration. Form 9 contains certificates to be signed by managers, (1) that the registers have been accurately kept in accordance with this Schedule; and (2) that the accuracy of the registers has been tested by the managers on several occasions and the result recorded in the log-book. In order that managers may be able to give these certificates they are required to visit the school without notice, at least once in every quarter, at some time when the attendance registers should have been marked and added up for that meeting of the school, and to check the entries. This should be done by ascertaining (1) that each of the children present at the time of marking has been marked present, and each of the children not so present has been marked absent; (2) that the totals of these attendances have been duly entered; (3) that the instructions for the keeping of these registers, hereafter laid down, have been fulfilled; and (4) that the admission register and summary have been properly kept up to date. The result of each such visit should be entered by the visiting manager in the log-book, dated, and signed by him. The managers should also, at the end of the year, check the number of times the school has been opened, and also a sufficient number of the attendance totals (at least 10 per cent.) to convince themselves of the accuracy of the registration.

ADMISSION REGISTER.

4. The entry for each scholar should be made in this register *on his admission* to the school. Successive numbers must be allotted to the scholars on their admission, so that each may have his own number, which he should retain throughout his career in the school, and which should be used to identify him. This will be specially useful when there are two or more scholars of the same name. When more than one entry is made for the same scholar, that is to say, when he has been admitted and re-admitted, he should resume his old number, and cross references should be made to the entries. This register should have an alphabetical index.

5. No child's name should be removed from this register until he has become exempt from legal obligation to attend school, unless it has been ascertained that he is dead, is

¹ This new Schedule is, in substance, a revision of Appendix II. to the Revised Instructions for 1902. in accordance with the new conditions of the Education Act, 1902.

attending another school, or has left the neighbourhood. If no information can be obtained, the name may be removed after a continuous absence of four weeks.

6. This register must show distinctly for each scholar who has actually been present in the school—

- (a) His number on the register.
- (b) The date of his admission (and re-admission)—day, month, and year.
- (c) His name *in full*.
- (d) The name and address of his parent or guardian.
- (e) Whether exemption from religious instruction is claimed on his behalf.
- (f) The exact date of his birth—day, month, and year.
- (g) The last school he attended before entering this school. If this is his first school, the word 'none' should be entered in this column.
- (h) If he has left, the date of his last attendance at *this* school and the cause of his leaving.

ATTENDANCE REGISTERS.

7. In each school or department separate registers should be provided for older scholars and for infants. The attendances of all children who are being taught with the older scholars or with the infants must be entered in the corresponding register, and no attendance must be transferred from one register to the other. The infant registers must show the attendances of infants under five separately. In small infants' schools and classes two registers should be kept, one of children under five and one of children over five years of age. In large schools it will probably be necessary to have two registers for these classes of infants which contain some children below and some above five years of age. Strictly speaking, the transfer from one register to the other should be made on the child's fifth birthday; but a sufficient degree of accuracy will be attained if at the end of each week, when the summary is made up, the teacher transfers the names of all children who have reached the age of five during the week.

8. Separate registers should be provided for recording the attendance of scholars at special classes for instruction in any of the subjects mentioned in Art. 12 (f). These registers should show accurately the dates on which the class meets and the time during which the scholar is under instruction at each meeting; and those for cookery classes should also distinguish between attendances at demonstrations and time spent by the scholars in cooking with their own hands.


9. The approved time-table must provide adequate time at each meeting of the school for marking the registers, and they must be marked and the attendance totals entered during the time so provided. This time must end before the commencement of the minimum time constituting an attendance as defined by the Code,¹ after which the register must be closed and no scholar may be marked present except as provided in par. 12.


The marking of the registers for the afternoon meeting may not commence within an hour of the close of the morning meeting, except on occasions for which the special sanction of the Board has been given to a shorter interval. This proceeding is generally very undesirable, but special cases may occur, such as those of country schools in the north during the winter, where there is good reason for making the afternoon meeting of the school follow the morning meeting after a short interval.

10. There must be columns for the admission numbers and names of the scholars, both of which must invariably be entered at the same time, and a column for the attendances at each meeting in the school year, which column should be properly dated *before any entry of attendances or absences is made in it*. These attendance columns should be grouped in weeks, and at the foot of them should be spaces for totals of the number present when the registers were marked and the number withdrawn before the time constituting an attendance is complete. There is no need that the weekly total of attendances of each scholar should be entered; but the total attendances of each quarter should be recorded.






If school fees are entered in the register, they should be kept quite separate from the entries of attendances: the best place will be the extreme left of the page before the names of the scholars.

¹ See Article 12, p. 571.


11. Every scholar whose name has been entered in the admission register and not removed from that register must be definitely marked \ (present) or  (absent) at every meeting of the school.

12. When a scholar leaves before the completion of the minimum time prescribed by the Code, his mark of presence must be cancelled immediately on leaving by drawing a ring round it thus,  and his attendance must be deducted from the total. But

this need not be done in the case of a scholar leaving the school for instruction in any of the subjects mentioned in Art. 12 (f), unless it is subsequently ascertained that such scholar has not completed the minimum time constituting an attendance. Any scholar marked absent at any meeting who is found—when the registers of a central class for cookery, drawing, science, etc., or the registers of attendance at museums or other approved places are examined—to have been present during the minimum time constituting an attendance at such class or partly at such class and partly at the school, may have the letter C, D, S, M, A, etc., entered inside the mark of absence, thus,

     . All attendances so registered should be added

to the total attendances of each child at some time not later than the end of the year.

When a child is prevented from attending the school by reason of a notice of a sanitary authority under Art. 88 of the Code, or any provision of an Act of Parliament, or is excluded under medical advice, his mark of absence should be entered thus,  (epidemic sickness).

13. At each meeting the total number of scholars marked present should be checked, by counting those actually present before the correct total is entered at the foot of the register.

The number of scholars who have left any meeting before completing their attendances (*see* paragraph 12) must be entered *before the close of each meeting*.

14. When the school does not meet on an occasion for which space is provided in the registers, this space must before the next meeting be cancelled by one or more lines being plainly drawn through it. The reason why the school did not meet should always appear in the log-book. For longer periods 'holiday' should be written across the column.

15. The attendance registers must be marked every time the school meets, however small the attendance, and the meeting must be counted in ascertaining the average attendance.

N.B.—In country districts, where the children have to come from some distance to attend school, a meeting of the school may occasionally be abandoned without previous notice on days when, owing to inclement weather, the attendance is so small as seriously to interfere with the ordinary working of the school.

In such a case, the children who reach the school so wet that sitting in school for the usual school hours is likely to be injurious to their health, should be sent home at once. The children not likely to be injured by remaining for the usual school hours may be admitted and allowed to receive instruction without the registers being marked or the meeting reckoned. Whenever this is done, full particulars of the circumstances must be entered in the log-book, and a record should be kept of the numbers sent home and retained in school respectively.

HALF-TIME REGISTERS.

16. A separate register must be provided for half-time scholars. The name of no scholar may be entered on this register unless he has obtained a labour certificate from the local authority of the district, and is actually employed in conformity with such certificate.

17. In this half-time register will be posted, at the close of each week, the number of the attendances made by each of the half-time scholars during the week.

18. The class registers will be marked for half-time scholars just in the same way as for other scholars, presence for *not less than two hours of secular instruction* being marked by a stroke, and the entry for the week in the half-time register will be the number of such *two-hour attendances* made during the week.

19. At the end of the year a list will be drawn up, and signed on behalf of the local authority, certifying (a) the number of two-hour attendances made by each half-time scholar, (b) the addition claimed on his behalf. This addition may not exceed—

- (i.) *One-half* of the two-hour attendances made by the scholar during the year, or during the portion of the year that has elapsed since the scholar became qualified as a half-timer; or
- (ii.) Such a number as when added to the number of his two-hour attendances will give a total equal to *three-fourths* of the number of meetings of the school during the year, or during the portion of the year that has elapsed since the scholar became qualified as a half-timer.

20. In Form 9 there should be entered in the spaces provided for the purpose (1) the total number of two-hour attendances, whether made by half-time or whole-time scholars; (2) the average attendance found by dividing this number by the number of meetings of the school; and (3) the additional attendances claimed for half-timers under the rules laid down in the preceding paragraph. The average attendance, which will be the basis of the grant, will be calculated from the above data by the Board.

REGISTER OF SUMMARIES.

21. The attendance totals of each class and department, for each week or part of a week, the number of times each department has been open for the same periods, and the average attendance of each department for these periods should be entered in the register of summaries *at the close of each week*.

At the end of the school year the total number of attendances and meetings for that year should be ascertained for each school or department. A separate summary of the attendances of children under five years of age must be given for infant schools or classes.

The average attendance for the year should also be ascertained for each section of the school for which separate returns are required by dividing the total number of attendances in the year by the number of meetings of the school in that year.

The summary should also show the number of scholars on the registers at the end of the school year classified as required by Form 9.

LOG-BOOK.

22. The log-book should be stoutly bound and contain not less than 300 ruled pages. It must be kept by the principal teacher, who should enter in it, from time to time, such events as the introduction of new books, apparatus, or courses of instruction, any plan of lessons approved by the Board, the visits of managers, absence, illness, or failure of duty on the part of any of the school staff, or any special circumstance affecting the school that may, for the sake of future reference or for any other reason, deserve to be recorded. No reflections or opinions of a general character are to be entered in the log-book.

Entries in the log-book should be made by the head teacher at the end of each school week, and at such other times as occasion may require. No entries should be made by other persons except by the correspondent, by the managers who check the registers periodically, and by the inspector.

The log-book should contain an explanation of the reason for the closing of the school on all occasions on which it is closed. It should also contain an account of all important variations in the attendance, and all deviations from the ordinary routine of the school.

SCHEDULE VIII.

COMPARISON OF THE CODE FOR 1902

WITH

THE PROVISIONAL CODE FOR 1903.

[*See Article 132 of the Code for 1902.*]

(A.) Articles of the 1902 Code which are cancelled in the 1903 Code :—

1, 2, 6, 7, 23, 43, 44, 45, 57, 64, 65, 66, 71 (small print), 72, 80 (small print), 84, 85e, 87 (small print), 89, 108, 109, 130 (3), 131, 132.

Also Appendix A.

(B.) Articles of the 1902 Code which are modified in the 1903 Code :—

5, 5*, 8 (transferred to 85), 9, 10, 12 (f) N.B., 12 (g) (ii), 13, 18, 19, 20, 21, 22, 24, 30, 33, 34, 35, 36, 37 (small print), 40, 41 (a), to (f), 48, 49*, 50, 51 (c), 57*, 58, 60, 60 (b) (c), 61, 62, 63, 67, 68, 71 (small print), 73, 76, 77, 79, 80, 81, 82 (a) and (c), 85 (a), 85 (a) N.B., 85 (d), 86 (1) (2) (3), 87*, 88, 93, 94, 97 (small print), 101*, 102, 110 (2) (iii), 110 (8) (i) (iii), 110 (9) (13) (14) 111, 128, 133.

Also Schedules I. to VI., and Appendix B.

(C.) New Articles established in the 1903 Code :—

9 (a) (b), 22 (b), 51 (d), 60 N.B., 68 (small print), 71*, 82 (d), 101* (second paragraph), 128 (d).

Also Schedule VII. (transferred, with modifications from the Revised Instructions applicable to the Code of 1902) and Schedule VIII.

REVISED INSTRUCTIONS¹

APPLICABLE TO THE CODE OF 1902.

The Code lays down the following regulations with regard to curriculum and grants :—

1. The single grant now made, which is payable at one of two different rates according to the general efficiency and suitability of the school or class and the instruction given in it, covers the whole of the instruction which should ordinarily be given in all schools, but not those special subjects of instruction which can be taken in some schools only, and which, whether taught at the school or at central classes, involve a corresponding special expense. Further special grants are payable in respect of instruction in cookery, laundry work, dairy work, cottage gardening, manual instruction, and household management.

2. The regulations of the Code with regard to the nature and scope of the English which should be given in all schools have in view the co-ordination of the whole of the school work, giving freedom of initiative to individual managers and teachers, and providing for adaptation of the instruction to local requirements.

In infant schools and classes, the instruction includes the elements of reading, writing, and arithmetic, needlework (for which drawing may be substituted for infant boys), appropriate varied occupations, singing, simple physical exercises, and simple lessons on common things.

In schools for older children, the course of general instruction as a rule includes English (by which is to be understood reading, recitation, writing, composition, and grammar in so far as it bears upon the correct use of language), arithmetic, lessons on geography, history, and the common things of which a child should have some knowledge, singing, physical training, drawing for boys, and needlework for girls. The greatest freedom possible is allowed to managers and teachers in planning and carrying out courses of instruction comprising these subjects. It is not required that all of them should be taught in every class of the school; and one or more may even be wholly omitted in any school which can satisfy the inspector and the Board that there is good reason for such omission.

Over and above these subjects, which form the general course of instruction in all schools, the subjects formerly known as specific subjects may be taught to classes or to individual children; and it is expected that one or more of them will be so taught, where the circumstances of the school, in the inspector's opinion, make such teaching proper and desirable.

3. At the beginning of each year there must be provided a plan of the work to be done in that year, which should set out in outline schemes of work in the different subjects. But if it is necessary in the interests of the scholars, the teacher is at liberty to deviate from any scheme either in the way of omission or enlargement or curtailment of its various parts. There should also be provided note-books for containing brief summaries of the chief oral lessons, a record book in which the head teacher may make brief entries showing the quality of work done throughout the school as tested by periodical examinations, and progress or mark books as to the individual conduct, application, and advance of the scholars. All these documents are the property of the managers, and in case of a change of teacher should be left at the school. It may be useful that some short record of the conduct of each scholar should be sent to the parents annually. But such records should not hamper a teacher in varying the work of the school nor be so detailed as to demand an undue amount of clerical work.

4. In determining which of the two rates of grant shall be paid, the Board will consider, both in schools for infants and in those for older children, not only the

¹ These Instructions are dated the 18th May 1902, and they do not contemplate the situation created on the coming into operation of the Education Act, 1902. The Memorandum prefixed to the Code states (p. 569) that the remodelling of the Revised Instructions is deferred, until they can be issued in a complete form in connection with a more definite Code.

quality and sufficiency of the instruction given, but its suitability to the circumstances of the children and of the neighbourhood. In Appendix I. will be found a number of model schemes which have been framed for the courses of instruction suitable to schools of different types. These schemes are meant to give help and guidance to managers and teachers, but are not prescribed for adoption. Any well planned and practical scheme carrying out the same general principles, and applying them as particular local requirements suggest, will be accepted as satisfactory.

With regard to the discrimination between the two rates of grant which may be awarded to schools either for infants or for older children, the Code lays down the same general rule, viz.: 'The Board of Education shall decide which, if either, of these two grants shall be paid after considering the report and recommendations of the inspector on each of the four following points—(a) the suitability of the instruction to the circumstances of the children and the neighbourhood; (b) the thoroughness and intelligence with which the instruction is given; (c) the sufficiency and suitability of the staff; (d) the discipline and organisation.'

These are not rigid tests each of which must be satisfied in order that the higher rate of grant may be awarded, but general indications of the conditions which a good school ought to fulfil. If, therefore, a school satisfies three of these tests, but fails comparatively in satisfying one of them the higher rate of grant will be awarded unless the failure is conspicuous and persistent.

5. The first test will be applied with great consideration for the difficulty that many teachers may still find in introducing some variety and some special character into the course of instruction. They have been accustomed to a system which was practically uniform; under which all schools followed a similar course of instruction, and a similar measure of attainment was expected from all scholars, whether in town or country.

In the large town schools managers and teachers can readily give to the course of instruction for older scholars that special direction which seems best adapted either to prepare them for their future callings in life, or to enable them to take advantage of the instruction afforded in schools of a more advanced character.

In country schools where the course of instruction used to be confined to the 'standard' and one or two 'class' subjects, teachers who have to undertake the instruction of the whole school without much skilled assistance may be unwilling, or may think themselves unable, to alter their methods. They should bear in mind that no additional burden is laid upon them, that all changes should be gradual, and that the customary course of lessons can be modified so as to afford more general and practical instruction.

The object of the course of instruction is to convey information to the minds of children, and still more to stimulate them to acquire knowledge for themselves. To this end all lessons should be directed, and not merely the 'object' lessons which are sometimes supposed to be the only effective method of attaining it.

In the first years of their school life the children acquire gradually some facility in reading and writing, but this facility should not be treated as the sole end and object of the lessons. From the very first children should be trained to read for the sake of information or entertainment. They should be encouraged to express their notions in simple and intelligible language, at first perhaps orally, and afterwards in writing. In this way they will gain power of reading easily and apprehending the meaning of what they read, and of writing legibly and spelling correctly all such words as they are likely to use. These are the objects of elementary instruction rather than elocutionary reading and the transcription or writing from dictation a succession of words imperfectly understood.

Teachers who concur in this opinion will gladly devise schemes for the partial substitution of silent for oral reading, and of exercises in composition for dictation and transcription.

All that has been said here or in the preface to the 'schemes of instruction' is given as advice and is not imperative. The course of instruction to be followed in all schools was once prescribed in minute detail, and practically little variety, even of method, was attempted by any teacher. Teachers have now to consider for themselves what shall be the scope of their instruction and what are the best methods to

pursue. They may, if they choose, deviate little from the routine which has become a second nature, or they may introduce innovations both numerous and various. But whether they adopt either of these extreme courses or a judicious modification of both of them, they must remember that the responsibility is theirs.

6. The second point is the thoroughness and intelligence of the instruction. The former may be tested in various ways—by formal examinations, by oral questioning at every lesson, or by careful revision of exercise books.

Examinations should not be too frequent. The teacher of the class can hold them with more useful effect than a stranger; the teacher needs to ascertain whether his instruction has gone home; he also can use the results of his examination to make his pupils realise where they succeed and where they fail. A formal examination of a more complete character once (or possibly twice) in a year is useful for exciting emulation and inducing the children to work for an object. No better stimulus to exertion has yet been devised. For this kind of examination extraneous help can be used with great advantage; in large schools, at all events, teachers can exchange classes for this purpose, and in smaller schools the managers may be able to find some qualified person to take part with the teacher in this work.

These are the only examinations that it is desirable to continue. The inspector no longer (except as provided for in the case of an appeal under Article 86 of the Code) holds any examinations of individual scholars except those who require labour certificates. He will judge the success of the instruction by noticing the conduct of the children during their ordinary lessons, whether the attention is keen or languid, whether the children are careful and industrious or idle or slovenly. He may put a few simple questions on the subject of the lesson or on other parts of the school work. The exercise books, the records of previous examinations, and the papers worked by the children and revised by the teacher will afford further material for forming an opinion. In this way the inspector may give valuable help to the teacher; for frequently small errors of various kinds may strike a fresh observer though they escape the notice of one whose apprehension has been somewhat blunted by familiarity.

The entire removal of the official examination,¹ which was once a determining factor in the scheme of instruction, will induce teachers to consider what changes of method should be introduced: for the intelligence of the instruction depends on the method, and methods aim at a certain end.

First, the children may be taught less and learn more, *i.e.* the teacher should endeavour to make the children observe, and infer for themselves, and should be less anxious to convey to their minds ready-made information. Progress may be slow, but it will be real and permanent, and the children will know how to gain information for themselves. Next, their memories should not be burdened excessively. Children learn by rote with great ease and imitate readily: the teacher, whilst making good use of this faculty, should endeavour to train the children not to commit words and phrases to memory without thinking of the meaning of what they repeat: he should train them not to learn mere strings of isolated facts, but to notice the connection of one fact with another.

7. The third point is the sufficiency and suitability of the staff. The Code, Article 73, prescribes a minimum staff, without which whatever grant may be otherwise warranted cannot be paid in full,² but it does not state that such a staff is sufficient under all circumstances; nor does the Code lay down any rule about the adaptation of the teachers to the special work required of them. Therefore, before deciding that the staff of teachers is adequate, the special circumstances of every school and the efficiency of its staff must be considered. The number of scholars is one factor in the case, but there are others equally important, the age and sex of the scholars, their intellectual capacity, their health and condition in life, and the planning and equipment of the buildings. In large modern schools a separate room for each class in charge of its own teacher is provided, and this is the most effective arrangement. But such an arrangement is impossible in small schools. In these, however,

¹ See, however, Article 22 (b) of the Code for 1903.

² See, however, Article 73 of the Code for 1903, and paragraph 11 of the Prefatory Memorandum (p. 568).

each group of scholars ought to have a teacher of some kind, nor can a head teacher be considered available for children whom he cannot have under observation. Again, no teacher can instruct more than two groups of scholars at the same time, each group usually containing scholars of various degrees of proficiency. Effective assistance therefore should be provided in schools attended by children of all ages, even though the total number of scholars is small. Experienced managers recognise this necessity, but it is desirable to point out that the highest rate of grant cannot be awarded where the teaching staff, though numerically sufficient, continues to be practically inadequate.

With respect to the suitability of the staff, two general principles may be stated. First, the teachers should be adapted to the age and sex of their scholars; secondly, they should possess adequate knowledge of the subjects they have to teach. Thus, infants and young children should be taught by women, and in mixed schools the presence of an adult woman is generally indispensable. Also, some teachers may be quite capable of teaching infants and young children but may not be qualified to instruct older scholars in arithmetic, geography, history or science. The 'additional' teachers mentioned in Article 68 of the Code should not therefore be allowed to teach in the upper division of the school unless they can give evidence of sufficient attainments. These are some considerations which must be taken into account in deciding whether the staff of the school is really efficient.

8. The last point is discipline and organisation. The most effective agent for maintaining good discipline is the teacher's own example. Children readily recognise that their teachers are anxious to help them, patient, but yet determined to be obeyed. They notice also such details in their conduct as punctuality, order, neatness, gentle speech, and imitate what they see and hear. They observe little defects of conduct more keenly still, and with disastrous effect. It is on this account, therefore, that great stress is laid on matters that appear to be unimportant. The punctual, methodical performance of all the duties of the day, however trifling they may seem, is the result of good habits in the teacher and the foundation of good habits in the scholars. If discipline were perfect, punishment would be unknown, for the result of efficient discipline is to engender the good habits which render punishment unnecessary. This happy consummation can hardly be realised, but such should be the teacher's ideal. Order, diligence, and obedience, which are only maintained by frequent punishment or the dread of it, do not constitute good discipline. Indeed, the infliction of punishment is, to some extent, a confession of defeat by the authority that inflicts it; for the object of discipline is to prevent the commission of faults. No punishment which excites the emotion of terror in a child should ever be employed. In an infants' school no punishment should be permitted which causes bodily pain. In schools for older children, corporal punishment should be discouraged as an ordinary expedient in boys' schools, and altogether in girls' schools. The punishment register, which is required in all schools, may serve some good purpose if it induces teachers to reflect occasionally on their methods, and to consider whether these really tend to the formation of the habit of good conduct.

The organisation of a school is good if the scholars are properly distributed, and if the teachers are qualified to undertake the special work prescribed for them in the scheme of instruction:

In large schools the organisation is generally effective. In these the whole of the instruction in each class is generally assigned to one teacher, but some variation in this practice may be suggested. Teachers are not interested in all subjects alike, and therefore the work of the school may be distributed among the staff so as to assign the instruction in certain subjects to those teachers who have special knowledge of them. The possession of a certificate shows that the teacher has an adequate knowledge of the rudiments of general information, but does not indicate the subjects which he has mastered more completely. He cannot be expected to teach all subjects with the same ability merely because he has a certificate. Subjects like mathematics (including arithmetic), the science of common things, literature, cannot be taught effectively by teachers who have merely a superficial knowledge of them.

In smaller schools there is great difficulty in providing due gradation in the scheme of instruction without multiplying the number of classes excessively. The special scheme prescribed for such schools in former Codes has not proved to be

practically useful. The division of the school for all subjects into two groups only was prejudicial to the progress of the children. The scholars (and their parents also) thought that no progress was made unless they were promoted from one class to another. In such schools there must always be some individual teaching, especially of arithmetic, and the difficulty of excessive subdivision may be overcome by combining the scholars in large groups for lessons which can be given in common, and by classifying them according to their progress in those subjects which require individual instruction. In this way the apparent promotion of the scholars annually (or at other intervals) can be secured, and an effective incentive to industry provided. For this purpose also the name 'Standard' may be retained, but the teachers should not therefore think themselves bound to practise exactly all the exercises prescribed in the Schedule of Standards. They may vary them in any way they think fit. For instance, in teaching arithmetic to the more advanced scholars, they may omit some of the 'Rules' mentioned in Standard VI. and VII. (Interest, Stocks, Percentages, etc.), and substitute exercises in Proportion, Practice, and Simple Mensuration, all of which have some practical application. The practice of silent reading also will enable them to minimise the evil caused by excessive oral reading in class, where some children attempt to read what is far too difficult for them, whilst others waste their time on passages too easy to afford any exercise, and too childish to be either instructive or amusing.

Given under the Seal of Office of the Board of Education this 13th day of May in the year One thousand nine hundred and two.

G. W. KEKEWICH,
Secretary.

L.S.

NOTES ON ARTICLES OF THE CODE OF 1902.¹

Articles 6 and 8.²

Article 6 defines the term 'Managers,' and Article 8 requires them to provide certain apparatus that is necessary for the equipment of the school, and specially mentions (a) the registers, (b) portfolio for preserving official letters, (c) log-book, (d) cash-book, (e) the Code and Instructions, (f) book for recording minutes of managers' meetings. All these are the property of the managers. All except the minute-book, and in some cases the cash-book, should be kept at the school, in order that the inspector may see them at any visit he may make.

These books need not be shown to any one except the managers or persons authorised by the managers to examine them, and the inspector.

Rules for keeping the registers and log-book will be found in Appendix II.

The attendances of children under five years of age must be registered separately. The object of this rule is to ascertain the regularity of the attendances of those scholars who are legally bound to attend school. Children under five years of age cannot be compelled to attend, and if enrolled cannot attend with the same degree of regularity that is required of older children. It follows that statistics which include the attendances of these very young children will probably give an untrustworthy indication of the regularity of attendance.

¹ Throughout these Notes on Articles of the Code of 1902 it is necessary to bear in mind what is pointed out in the foot-note on p. 611. Several of the Articles on which notes are given on this and the following pages are modified or cancelled in the Code of 1903.

² Article 6 is cancelled in the Code of 1903, and the principal part of Article 8 is transferred to Article 85.

Questions have been asked as to the exact date at which a child's name should be transferred from one register to the other. Strictly speaking, the transfer should be made on the child's fifth birthday; but a sufficient degree of accuracy will be attained if at the end of each week, when the summary is made up, the teacher transfers the names of all children who have reached the age of five during the week.

In large schools it will probably be necessary to have two registers for these classes of infants which contain some children below and some above five years of age.

In small infants' schools and classes two registers should be kept, one of children under five and one of children over five years of age.

Article 12.

Article 12 defines 'attendance.' It is important to note that the Article requires that the minimum time constituting an attendance begins *when the registers have been marked*. An erroneous notion prevails that the time for registration may be included in the minimum time for secular instruction.

Article 12 supplies a rule for cases in which the managers wish the afternoon meeting of the school to follow the morning meeting after a short interval. The proceeding is generally very undesirable, but special cases may occur, such as those of country schools in the north during the winter, where there is good reason for adopting the expedient. Where managers desire to shorten the minimum interval of one hour they must, as the Article directs, make special application to the Board.

Article 12 (g) (i) permits visits to museums, etc., during school hours to be counted as part of the minimum time constituting an attendance at school if the approval of the inspector has been obtained. This cannot be given unless it is clear that the object of the expedition is educational and not merely recreative. A test of the value of this variation in the ordinary routine of school work is afforded by requiring the scholars to give an account of their visit.

Article 12 (g) (ii) allows attendances at central examinations, but these do not include examinations for labour certificates.

Article 13.

Article 13 cancels the attendances of a scholar while habitually employed as a monitor, but the attendances of the same scholar when not thus employed may be counted.

Article 15(a).

The instruction of infants' schools and classes must be adapted to the tender age of the scholars. The length of the lessons therefore should never exceed thirty minutes, and would be better reduced to fifteen or twenty minutes, and the lessons should be varied in length according to the section of the school. In the babies' room, which should always, where circumstances permit, be separated from other rooms by a partition (moveable or otherwise), and should contain abundant space for games and exercises, the actual work of the lesson should not be more than a quarter of an hour. Each lesson should be followed by intervals of rest or singing. It is evident, therefore, that older boys and girls, who do not need these intervals, and require longer lessons, cannot be considered suitable pupils in an infant school merely on the ground of their ignorance. Though the methods of teaching are similar, such children require a somewhat stricter discipline and lessons of greater length. They do not find the songs and games of the infant school attractive, and they are not fit companions for very young children in the playground. Though no rigid rule as to age can be applied, especially in the cases of delicate and afflicted children, it may be safely laid down that backward scholars of advanced age would make more progress in knowledge, and form better habits, in a school for older scholars than in an infant school.

The manual or other employments best suited for infants are modelling, simple geometrical drawing, weaving, plaiting, building with cubes, drill, singing, recitation, and such other exercises as will relieve them, especially during the afternoon, from the strain of ordinary lessons, and train them to observe and imitate. It should be borne in mind that it is of little service to adopt the 'gifts' and mechanical occupa-

tions of the *kindergarten* unless they are so used as to furnish real training in accuracy of hand and eye, in intelligence, and in obedience.

Article 15(b).

The term 'elementary subjects' now includes not merely reading, writing, and arithmetic, but such elementary knowledge as may be acquired by the use of these subjects. The object therefore of teaching reading should be remembered, and children should be taught as soon as possible to read for themselves.

The mechanical difficulties of reading, which are to be found in the shorter words of irregular spelling, should be mastered by the time a child has been under instruction in a school for older scholars during two complete years, but even in earlier stages of progress an attempt should be made to teach children to read in a natural tone, and to break up sentences rather into phrases than into single words.

In all classes the greatest importance should be attached to the right method of breathing, distinctness of articulation, and clear utterance; the sounds produced, especially the final consonants, should be made distinctly audible by a free use of all the organs of speech. Simultaneous reading aloud, if habitually practised, is mischievous, as tending to distract the teacher's attention from the pronunciation of individual children, and to induce an unnatural intonation among the scholars. Scholars should be encouraged to read passages in a natural voice, and with such natural emphasis as they would use in ordinary speech.

Variety in the books read should be studied. School periodicals may be found useful in widening general knowledge, and in giving an interest in the ordinary affairs of life and in current events. The reading of good lyrical poetry will also be found to be of special value in the higher standards. Recitation should be a frequent and regular exercise, and should not be restricted to a specified number of lines. A judicious choice of a variety of suitable passages from great poets will be more interesting and instructive than the continual repetition of the same passage throughout the year. The scholars will not, of course, be expected to remember accurately any poems except those which they are studying at the time.

In some good schools the aid of the parents has been successfully enlisted, and they have been urged to hear their children read aloud from a newspaper or from a book for a few minutes at home every day. The amount of oral practice which any one child can obtain in a large class is obviously insufficient: and a little home exercise in reading aloud is often found to have an excellent effect.

Reading circles or classes, with the object of keeping up and guiding children in the habit of reading after they have left school, may also be usefully encouraged by managers and teachers.

The officers of the Board of Education are not at liberty to prescribe or to recommend particular books, apparatus, or school requisites for use in schools. But the inspector may, with the concurrence of the chief inspector of his division, disallow the use of any books which are plainly unsuitable, or which do not conform to the requirements of the Code as interpreted by these Instructions.

Any system or style of writing which produces a bold and legible hand, and in which the forms and proportions of letters are duly shown, will be accepted as satisfactory.

Composition, which is of more educational value than dictation, should be encouraged, so far as circumstances permit, even in the lower classes. In framing sentences of their own, children learn to spell correctly the words which they commonly use.

Scholars in the higher classes should be taught the principles of the metric system, *i.e.* the systems of coinage and of weights and measures, in which the increase of values or of quantities proceeds by multiples of ten, and their diminution by multiples of one-tenth. It will probably be found most convenient to illustrate these principles by reference to the metre, the franc, and the gramme.

In Schedule I. to the Code a scheme, marked B, is proposed as an alternative to the ordinary standard course in arithmetic, from which it does not differ very materially in the higher standards; but in the earlier steps leading up to the Fifth Standard an important variation will be observed. Many experienced teachers

believe that the true progression in arithmetic is not to be found in advancing from addition and subtraction to multiplication and division, with the large numbers often given in sums, but in graduated exercises beginning with small numbers and exhausting all their combinations.

Among the subjects named in this Article, physical training is one of great importance. A model scheme for instruction in this subject has been prepared, and will be found useful, either for adoption as it stands, or as giving suggestions to teachers and managers who prefer to frame schemes for themselves.

Article 15 (b) (ii) and (iii).

To the subjects which should be taught in all schools a list of other subjects is added, one or more of which may, and, indeed, ought to be taught, where circumstances allow. A child of good ability who attends school regularly from the age of five to the age of fourteen can add something to the ordinary course.

A number of suitable subjects are named in Article 15 (b) ii, besides the practical subjects enumerated in Article 15 (b) iii. The list is by no means exhaustive, and the subjects may be modified. Thus, for Euclid, practical geometry, such as is found in the text-books of arithmetic used in some foreign primary schools, may be substituted. Algebra may be treated as extended arithmetic, and the scholars taught how to solve simple problems by the aid of equations, as soon as they can grasp the use of symbols instead of numbers, without spending much time on such matters as factors, etc.

A foreign language can be taught conversationally to young scholars, and the process will improve their use of the mother-tongue.

Physics and other subjects of science are merely extensions of the lessons on common objects which should be given in all schools.

Regulations for teaching cookery and laundry work will be found in Appendix V. to these Instructions and in Article 101 (g) (h) of the Code. No grant is paid for these subjects on account of children who have not reached the age of eleven.

The instruction in cookery given should include instruction and practice in all the principles and primary methods mentioned in Appendix V. A full list of all dishes which it is proposed to teach should be put up in the cookery room. The managers should depute one of their number or some other competent person to be present at one lesson at least, at which two or three of the dishes mentioned in the Appendix should be cooked by scholars without recipes or notes or any aid from the teacher. A record of the number of children present at each class, and of the dishes prepared by them at each lesson, should be preserved and submitted to the inspector. The managers should not be satisfied with the conduct of the class unless—

- (a.) Thorough instruction is given in the first principles and primary methods of cookery, and the teaching is systematic and progressive :
- (b.) Strict attention is paid to cleanliness, order, and economy :
- (c.) The dishes taught are suited to the wants of the working-classes living in the neighbourhood :
- (d.) The apparatus includes such stove and other appliances as are usually found in the homes of the working-people of the neighbourhood, and these are generally used at the meetings of the class :
- (e.) The children have adequate knowledge of the dietary value of the foods cooked.

No writing should be done till nearly the end of the demonstration class while the utensils are being cleaned and the dishes are cooking. This would occupy the last third of the time. Writing should not be done in the practice class, but a blackboard summary and a few well-directed questions on the lesson are allowable in the last quarter of an hour.

In cookery, and also in laundry classes, some simple remedies should be at hand for the treatment of scalds and burns.

A grant for cookery is now made on account of boys in seaport towns who are receiving instruction in this subject with the special approval of the Board. As these boys will probably seek to earn their livelihood on the sea, they may also be taught how to use the needle sufficiently to keep their clothes in serviceable condition.

When laundry work is taught, the appliances and methods should be those which are possible in the homes of working-people, and the teacher should have a practical as well as theoretical knowledge of what she teaches.

Household management, including cookery, laundry work, and practical housewifery, is recognised in the Code as a subject of instruction, and a grant is made for it. As it is a wide subject requiring a thorough knowledge not only of the practical work of a house and its management, but of Elementary Hygiene and Physiology, it is necessary that the teacher should be well grounded in all these subjects.

A practice class of Housewifery should not consist of more than fourteen girls; the instruction given should comprise the usual school syllabus of Domestic Science, together with the practical teaching of house management.

It is not intended that this teaching should resolve itself into a class for training children for domestic service, but that it should fit them on leaving school for the various household duties which devolve more or less upon all women.

Article 20.

The school year is the term for which the returns of attendance and the accounts are made up and in respect of which the annual grant is paid. Any school may adopt a distinct year for educational purposes and the course of lessons may be arranged accordingly. This year can be subdivided into three or four terms as may be found convenient. If all the schools in the same district adopt a uniform educational year children who remove from one school to another at any period of the year will find a class suited to them.

Article 33.

Probationers may be counted on the staff of the school, if the inspector approves them and is satisfied that they are receiving suitable instruction to prepare them for admission as pupil-teachers in due course. No formal examination of these probationers will be held, but the managers should test their progress, and at the inspector's visits to the school he will ascertain the character of their instruction by examining their exercise books and any examination papers they may have worked, by noting the text-books used, and by oral questions. Unless satisfied that they are taught carefully and regularly, he will not recommend their recognition by the Board of Education. In such cases warning will be given by him to the managers at the time, or as soon after as possible.

Articles 34-45.

The subjects of examination for admission to a full or a shortened term of engagement are set forth in Schedule V. of the Code. This examination will in future be held once a year only, at some date shortly before or after Easter; but the engagement will be, as heretofore, either from the first of January or from the 1st of July.

Pupil-teachers are not now required, after their admission, to pass any examination during their engagement other than the final examination prescribed by Article 41 (*f*). The first and second year examinations of Schedule V. are now confined to candidates for admission, and will not be open to pupil-teachers already admitted.

Pupil-teachers cannot be engaged until they have reached the age of fifteen, except in rural schools, and there only with the express approval of the inspector. This approval will not be given unless circumstances show that the relaxation is really desirable or necessary. The collective system of instruction of pupil-teachers has now been largely adopted, and arrangements have been made by many managers for restricting the employment of the younger apprentices in teaching to half of the day, and thus setting them free to pursue their own studies more systematically.

Pupil-teachers are not allowed to serve in school during more than 20 hours in the week, or five hours on any one day. Thus it is possible to give all pupil-teachers one day in the week, or two half days, or considerable portions of several days, which they can use for their private study, and time can always be found for their attendance at central classes during the day. These classes ought not to be held in the evening.

If pupil-teachers attend classes on the morning and afternoon of Saturday, they should be allowed at least one half-holiday during the week.

Where pupil-teachers serve in a school for the full 20 hours weekly, they ought

not to spend more than 12 hours per week in private study and attendance at classes for instruction.

A pupil-teacher centre should be accessible, and situated in a decent neighbourhood; the premises should be suitable, with sufficient cloak and lavatory accommodation, and in mixed centres the same precaution as to separate entrances and separate cloakroom and lavatory accommodation should be taken as in the case of mixed schools.

The centre should be under the charge of a responsible principal, who should give his whole time to the centre while the classes are being held. A staff, consisting of more than two persons, should as a rule include one or more persons who have had some training or experience of teaching in secondary schools. In all centres where girls are taught, at least one-half of the permanent staff should be women, and unless the principal is a woman, the senior woman teacher on the staff should, under the direction of the principal, be made specially responsible for the discipline and conduct of the girls.

In order to ascertain how far the pupil-teacher's course as an apprenticeship in the art of teaching has served its purpose, the inspector may hear the pupil-teachers teach and question their classes on the days of inspection. In the third year the pupil-teacher should prepare at regular intervals, and enter in a book, the notes of lessons, of which the inspector may select one to be given in his presence. If by the end of the second year the pupil-teacher proves to be seriously deficient, either in the habit of application or in aptitude for teaching, the inspector will make a special report on the case, as it is undesirable to encourage pupil-teachers to remain in a calling for which they are not fitted. Managers and teachers should pay increased attention to the pupil-teachers during the last year of their engagement, and obtain for them, whenever possible, special assistance in connection with any subjects in which they are deficient.

Article 73.

Article 73 specifies the minimum staff that can be employed in a school in order that the full grant may be paid under Article 108.¹ It does not follow that this staff is in all cases sufficient. The special circumstances of the school may require a more numerous staff or more teachers of high qualifications. Managers may wish to retain the services of teachers of proved value, who, from age or failure of strength, may not be equal to arduous work that tries the full energy of manhood. In such cases they may wisely provide additional assistance. They should therefore resist any attempt to induce them to reduce the staff simply because it exceeds the minimum required by this article. They ought to know the needs of their school, and they are responsible for its efficiency.

Article 79.

Article 79 requires that the time-table should be approved by the inspector. This approval, as its form shows, merely states that the arrangement of the lessons complies with the rule laid down in clause (d) of §7 of the Elementary Education Act of 1870. As a rule no alteration will be necessary during the year, but the course of secular instruction may be changed, if a note is made at the time in the log-book, and the approval of the inspector obtained at his next visit.

The division of the school hours between religious and secular instruction may not be altered without the inspector's previous approval.

The inspector may suggest improvement in the course of secular instruction, but he will very rarely insist on any change. Nothing can relieve the teachers from the responsibility for the efficiency of the teaching, and they therefore are left free to decide on what appears to them to be most suitable.

Article 81.

Article 81 states that the school must not be conducted for private profit. This rule expressly forbids the practice that has been known to exist of giving the whole income, or a considerable part of it, to the head teacher, and allowing him to provide

¹ See, however, Article 73 of the Code of 1903 (p. 582), and paragraph 6 of the Prefatory Memorandum (p. 568).

the staff and equipment required. But now that the amount of the grant is mainly dependent on the attendance of the scholars, managers should consider whether it is wise to continue the custom of making the teachers' salaries vary with the grant. The reason, which was not very satisfactory, formerly alleged in favour of this custom, viz., that it acted as a stimulus to vigorous exertion, no longer exists. Teachers, like other persons in steady employment, ought to know what salary they can expect.

Article 83.

Article 83 specifies the minimum number of school meetings (400) during the year. Most schools meet much more frequently, and managers may consider whether they may not with advantage give an occasional half-holiday in addition to the fixed school holidays. Such rare interruptions of the ordinary work will serve as a reward for diligence on the part of the scholars and afford a welcome relaxation to the teacher. In this way the difficulty that is caused in country schools by local attractions—fairs, fêtes, and the like—may be met.

Article 84.¹

Article 84 makes inspection during the period for which the grant is claimed one condition of the grant. The inspector will if possible pay two visits during the year, and will not as a rule give notice of his visits, except when he desires to confer with the managers, or when the managers wish to consult him on matters that are best explained at the school. Managers also should remember that H.M. inspector is alone entitled to give notice of his visits, and they must apply to him personally if they wish for a visit from him, or any of his staff, to whom he may think it right to delegate the duty.

At some visit in the course of the school year the inspector will examine the log-book, the punishment-book (*see* Appendix II., §37), the portfolio, the registers, the cash-book and vouchers, the pupil-teachers' memoranda of agreement, and the text-books, note-books, and exercise-books used by the pupil-teachers. He will also examine the time-table, which should contain an analysis by the teacher showing the number of hours devoted to each subject, and will note the sufficiency of the time allotted to recreation and physical exercises. He may sometimes find it necessary to request a deviation from the time-table at his visit, but will disturb the ordinary routine of the school as little as possible, and only after first consulting the head teacher. The time set apart for religious instruction will in no case be interfered with.

At the inspection the inspector should point out to the head teacher any defects in the instruction and organisation of the school which it is, in the opinion of the inspector, within the power of the teacher to remedy. He should also communicate to the managers, either orally at the inspection, or subsequently by letter, such defects in the premises and equipment, or in the instruction and organisation of the school, as he may consider to require their attention. The annual report will in most cases be forwarded to the managers when some considerable interval of time has elapsed since the most recent visit of inspection. It will therefore not go into minute detail, but will consist of a short description of the general character of the school as regards instruction, organisation, discipline, premises, and apparatus.

Article 85.

Article 85 prescribes the conditions that a school must satisfy with respect to (1) buildings and equipment, (2) course and adaptation of instruction.

Many of the buildings and much of the school furniture now in use do not conform to modern requirements, but improvements in both may be effected gradually, unless the buildings are so far defective as to endanger the health of the teachers and scholars, when the Board of Education must call for immediate improvement. Managers should not make any structural alteration without previously consulting the Board of Education, and they will find it very useful to preserve plans of the

¹ Article 84 is cancelled in the Code of 1908. *See*, however, Article 22 of that Code (p. 578), and Prefatory Memorandum (p. 567).

school premises. H.M. inspector may sometimes suggest alterations in the buildings, but the managers should not proceed to execute these, even if they approve them, without previously consulting the Board of Education.

With regard to the course of instruction, the scheme adopted must have the general approval of H.M. inspector, but teachers have full liberty to modify the details of the approved scheme in any way that subsequent experience suggests.

An abstract of the scheme, in sufficient detail to show the work proposed for each class in the school, should be entered in the log-book at the beginning of the educational year. At any visit of an inspector this should be shown to him.

Infants should be taught in a class-room of their own wherever it is possible to provide one. Only in very small schools can this rule be relaxed.

Article 86.

Article 86 requires that a school should be efficient in order that the annual grant may be paid, and prescribes the procedure that will be adopted when a school is found not to fulfil the conditions of efficiency.

These conditions have been already explained in a preceding part of these Instructions. The term efficiency has a somewhat wider meaning than that formerly assigned to it. In a school where no attempt has been made to give life and intelligence to the methods of instruction or to adapt the curriculum to the special needs of the scholars, constant practice of certain mechanical exercises may enable the scholars to pass a formal examination. Such a school does not deserve the character of efficiency that it might have obtained under former Codes. Again, a school may make an honest and not entirely unsuccessful attempt to satisfy the general conditions of efficiency, but the scheduled results of a formal examination may not reach the standard prescribed: such a school would not deserve the condemnation which under former Codes the inspector might have been compelled to pronounce. Accordingly, when an inspector thinks that a school is inefficient, his report will state precisely the grounds on which that opinion is founded. The managers will then be informed that H.M. inspector himself will visit the school again, after due notice given, in order that the managers may be present. At this visit he will ascertain whether the scholars have gained any benefit from the instruction that has been given during the time that has elapsed since the former visit, and may of course examine some of them if the exercises and records of examinations held by the teachers do not provide sufficient material for a decision, but he is not required to hold a formal examination of individual scholars as in former years.

If after this visit H.M. inspector still thinks the school inefficient, he will again make a statement in his report of the reasons for his decision, and the grant will be withheld from the school.

The managers may appeal as the Code provides, and the chief inspector will in that case visit the school and make a fresh inspection. At this inspection a formal examination of all the scholars may be held if the managers desire it, and if the insufficient attainments of the scholars have been stated to be the reason for declaring the school inefficient.

Article 98.

Article 98 (small print) lays down that the attendances of the scholars of an infant class in which the average is less than 20 will be reckoned with those of the older scholars. Doubt has arisen in some cases whether certain children who, under previous Codes would have been classed as Standard I. or Standard II. children, are to be counted as scholars of the infant class for the purpose of this Article. The rule to be observed in such cases is that these children are scholars of the infant class if the instruction they are receiving is that prescribed by Article 15 (a), but that they are not scholars of the infant class if the instruction they are receiving is that prescribed by Article 15 (b), whether or not they are taught, wholly or partially, by the same teacher.

The age at which a child should pass from the former to the latter course of instruction varies with the child's proficiency and with many local circumstances; and the Board do not lay down any fixed rule with regard to it. But the premature promotion of children who, whether by age or attainments, are not fitted for it is

greatly to be deprecated; and the inspector will not report a school as properly organised where he finds that this is habitually done.

Article 101 (l).

Article 101 (l), together with Schedule II., sets forth the conditions of grant for manual instruction. A minimum of two hours' instruction weekly is prescribed; but it is recommended that on the days when manual instruction is taken, it should extend over the whole time of a school meeting (exclusive of the interval for recreation prescribed by Article 12 (e)), even if that exceeds two hours.

The Appendices to the Revised Instructions for 1902 related to the following subjects:—

- No. I.—Specimen Schemes of Instruction.
- No. II.—The Keeping of School Records.¹
- No. III.—Needlework.
- No. IV.—Singing.
- No. V.—Cookery and Laundry Work.
- No. VI.—Additional Facilities for the Banking of School Pence.
- No. VII.—The Training and Instruction of Pupil-Teachers.
- No. VIII.—Instruction of Infants.
- No. XI.—Object Teaching.
- No. X.—Varied and Suitable Occupations.

¹ The greater part of this Appendix has been substantially reproduced in Schedule VII. to the Code of 1903 (p. 606). The remainder, which dealt with the manner in which Voluntary School Accounts were to be kept, is printed on pp. 624 to 626.

VOLUNTARY SCHOOL ACCOUNTS

PRIOR TO THE APPOINTED DAY

UNDER THE EDUCATION ACT, 1902.¹

38. Among the conditions required to be fulfilled by a school in order to obtain an annual parliamentary grant (Art. 76), the Board of Education must be satisfied that accounts of income and expenditure are accurately kept by the managers and duly audited (Art. 85 (d)), and the income of the school must be applied only for the purpose of public elementary schools (Art. 90).

39. In schools not provided by school boards, a cash-book should be kept, in the form shown on the schedule herewith.²

When this book is accurately kept, the totals of the several columns will furnish the returns required for the summary account in pp. 2 and 3 of the managers' returns (Form 9).

The cash-book should if possible be kept at the school, or, if not, in such a place that it may be produced without delay to His Majesty's inspector at any visit he pays to the school.

40. It should be strictly borne in mind that this summary account in Form 9 is not a statement of assets and liabilities, but a cash account, and a cash account having reference only to the maintenance of the school. It follows from this (1) that every amount actually received or actually disbursed, within the period for which the account is rendered, for the annual maintenance of the school, should be included in the account for that period, and (2) that any amount not actually received or paid within the period for which the account is rendered should not be so included. If the simple rule be followed of entering in the cash-book each receipt or payment on account of the maintenance of the school, as it occurs, all complication will be avoided.

41. All entries of accounts received and amounts paid should be duly supported by vouchers—the former by the counterfoils of the receipt-book, the latter by acknowledgments of receipt properly dated and signed by the persons who rendered the services or supplied the goods paid for, and setting forth the nature of those goods or services.

42. There should be a treasurer elected by the managers or subscribers. The treasurer should be a responsible person, not a member of the staff of the school, and by preference, unconnected with the school.

43. The balance with which each account commences should be that with which the previous account ends. The balance with which each account ends—i.e. the difference between the two sides of the account—should show the actual amount of overdraft, or the actual cash in hand, on account of the annual maintenance of the school. The treasurer and the managers through him are responsible for the accuracy of these balances.

44. No amount should be entered as a voluntary contribution which is not definitely given, without valuable consideration, by persons unconnected with the staff of the school. No amount entered as a voluntary contribution should afterwards be withdrawn.

45. When a receipt is given to a collector for a total amount collected by him, the counterfoil of the receipt-book should be supported by his account of the various amounts paid to him by the contributors.

47. The entries for salaries of teachers must include only the sums paid to them for teaching and keeping the school. They must not include any payment made to teachers for discharging other duties, which must be paid for out of a separate fund.

48. For the purposes of Article 90 of the Code the Board of Education do not recognise the following items as legitimately chargeable to the school account:—

(i.) Capital expenditure (including any outlay on the premises of so extensive a character that it cannot be passed under minor improvements).

(ii.) Cost of management beyond the actual out of pocket expenses, or any other items which are not proper to public elementary schools.

¹ See Prefatory paragraph 12 of the Memorandum to the Code (p. 569). The rules given on this and the two following pages are the directions mentioned in that paragraph.

² See p. 626.

(a) Capital expenditure may be shown in the accounts provided it is met by a balance in hand (other than from aid grant) at the beginning of the school year. The balance in hand must not be transferred from the school account to a building or other special account, but carried forward till it is actually spent.

(b) Minor improvements are held to include all alterations which are calculated to make the existing school better and more healthful; as, for instance, improved cloak-room accommodation, sanitary appliances, better ventilation, windows, and exits.

(c) Expenditure upon the following purposes may be entered in the accounts, provided the outlay under these heads is covered by the income of the school from sources other than the grants, viz.: a reasonable payment to an educational society (not being an association under the Voluntary Schools Act), for which an adequate return is obtained, fees for diocesan inspection in religious knowledge, a necessary conveyance for bringing children to school, school excursions under Article 12 (g).

(d) Expenditure on a school library, or part of the salary of an organising teacher, or of a teacher of drawing, manual instruction, drill, cookery, laundry-work, or any other special subject, employed by the managers of several schools at a central class or as a peripatetic teacher, is recognised as proper to a public elementary school.

49. The school accounts should be confined exclusively to the transactions of the school itself, apart from all other accounts, and should present a *complete* record of all such transactions.

(a) Expenditure which relates jointly to the day and Sunday-schools (as for 'fuel, light and cleaning') and is paid for in the first instance out of day school income will appear in full. But such expenditure should be divided between the two schools in proportion to the number of hours per week which each has been open, and the repayment by the Sunday-school managers should be entered on the income side of the account, under Head 7 in Form 9.

(b) The expenses of entertainments, concerts, &c., must not be entered in the school accounts. Only the net income from such sources should appear under Head 3 (c) in Form 9.

(c) All items of expenditure must be entered separately under the appropriate heads; a charge for 'rent' must not be inclusive of charges for 'fuel, light and cleaning' or 'repairs.'

50. The accounts of the receipts and expenditure of every school not provided by a school board must be annually audited in the manner prescribed by Article 85 (d) of the Code.

51. Where practicable, it would be found a great convenience that a special bank account should be kept for the school, into which all income should be paid, and out of which all payments should be made, by cheque.

52. Under the provisions of the Elementary School Teachers (Superannuation) Act, 1898, and of the rules made under the Act, the contributions due from teachers to the deferred annuity funds are deducted at the end of the school year from the grants to the schools where they are employed, and the managers are entitled to deduct from the teachers' salaries, as they are paid, the amount of their contributions. But the accounts will not be correctly stated unless the *gross* sums for grants and for salaries are entered. Each payment of grant represents the full grant paid by the Board to the managers, less the teachers' contributions paid by the managers to the Board. Similarly, the net payments by the managers to the teachers are the difference between the gross salaries due to them and the deductions for their contributions. Thus, while it is essential to enter the gross grants and gross salaries in the accounts, in order to bring the accounts into harmony with the actual transactions, the following rules should be observed:—

(a) For every entry of grant (gross) a corresponding entry should be made, on the expenditure side, of the deduction from the grant for the contributions to the superannuation funds.

(b) For every entry of salary (gross) a corresponding entry should be made, on the income side, of the deduction from that salary.

The deductions should be entered under the heads of 'other expenses' and of 'income arising from other sources.'

VOLUNTARY SCHOOL ACCOUNTS.

Accounts Circular.—Schedule.

[illegible]

RULES TO BE OBSERVED IN PLANNING AND FITTING UP PUBLIC ELEMENTARY SCHOOLS.

BOARD OF EDUCATION.

PREFATORY NOTE.

THE following rules are to be regarded as embodying the result of the experience of the Board of Education in school planning. They are intended to show school managers and their architects what the Board deem essential in the construction and design of school buildings, but in other respects they are not meant to restrict liberty of treatment.

Every part of a school building should be thoroughly adapted to the work of school teaching. Such a building, therefore, must be provided with an ample playground, must be of sufficiently solid construction, suitably lighted and warmed, and thoroughly ventilated, without draughts. It must have a sufficient number of entrances and adequate cloak-room accommodation; scrupulous care must be devoted to sanitary arrangements. The rules which deal with these matters express in each case the principles to which the Board will expect all new buildings to conform.

The remaining rules are intended to aid in the production of buildings which shall be compact, properly subdivided for class teaching, conveniently arranged for effective supervision by the principal teacher, and for the movement of the children from the entrances to the class-rooms or from one class-room to another. They also indicate how to obtain the most economical school building.

No school should ordinarily be built to accommodate more than 1000 to 1200 children in three departments. No single department should accommodate more than 400 children. A large school in three departments might conveniently be divided in the following proportions: Boys, 360, girls, 360, infants, 380. For departments of this size the most suitable plan is that of a central hall with the class-rooms grouped round it; as a rule such a department would probably require seven class-rooms. Smaller departments may be planned conveniently with the class-rooms opening from a corridor. For small schools a large room with one or more class-rooms will be sufficient. There should always be at least one class-room, except in special cases.

Where the site is sufficiently large, open and fairly level, the most economical plan is that of a school on a single floor. Such an arrangement is also preferable on educational grounds. In any case it is desirable that a school building should not be on more than two floors. A building on three floors is open to many objections, and should only be proposed in special circumstances, or on very costly sites.

Before instructing an architect, managers are recommended to have careful regard to the size and circumstances of the school, and to the number and qualifications of the staff to be employed. These considerations will determine approximately the method of grouping the scholars for instruction, and on this will depend the number and the accommodation of the rooms of which the school building should consist.

The annual cost of maintenance should be borne in mind as well as the initial capital expense.

Article 85 (a) of the Code provides as follows:—

‘All new school premises and enlargements must be approved by the Board before such new premises and enlargements are passed under this Article.’

REQUIREMENTS.

(Plans which do not fully comply with the following requirements cannot be considered.)

I. A BLOCK PLAN OF THE SITE, drawn in ink to a scale of 20 feet to an inch. This plan must indicate:

- (a) The position of the school buildings.
- (b) Out-buildings.

- (c) Playground.
- (d) Drains (collateral and main), with their fall and depth below ground.
- (e) Entrances.
- (f) Boundary walls, or fences, and their nature.
- (g) Roads.
- (h) The points of the compass.
- (i) The levels of the ground at the principal points.

N.B.—For approval of site alone, the plan should show (g) (h) and (i).

II. A PLAN OF EACH FLOOR OF THE SCHOOL-ROOMS (AND TEACHER'S OR CARETAKER'S RESIDENCE, if any) drawn in ink to a scale of 8 feet to an inch. The internal fittings of the rooms (*fireplaces, groups of desks, etc.*) must be accurately shown. The plan should also state whether the rooms are intended for boys, girls, or infants.

In cases of enlargement, a plan showing the buildings as they exist is needed.

III. SECTIONS and at least four ELEVATIONS, also drawn in ink to a scale of 8 feet to an inch. The ceiling, the positions of window-heads in relation thereto, and the mode of ventilation must be shown.

N.B.—(a) Pencil drawings cannot be received, but coloured tracings in ink on tracing cloth may be submitted while plans are in the preliminary stage of pencil, so that suggested alterations can be adopted without difficulty or expense.

(b) Diagrams are of no value and cannot be accepted.

(c) In the case of enlargements or alterations the whole site and the existing building should be as accurately shown in every respect as the proposed changes, and in such a manner that any change of numbers can be ascertained.

(d) All plans should be dated, the scales drawn on, and dimensions figured.

IV. A DETAILED SPECIFICATION separated under the several branches of the building trade.

V. A SECTION OF THE DESK proposed to be used, drawn to a scale of $1\frac{1}{2}$ inches to a foot.

RULES.

RULE 1.—PLANNING.

EVERY school must be planned so that the children can be seated in the best manner for being taught. The rooms must be grouped compactly and conveniently, so as to secure proper organisation and supervision. It is important to remember that the accommodation of every room depends not merely on its area, but also on the lighting, the shape of the room (especially in relation to the kind of desk proposed), and the position of the doors and fireplaces.

The doors and fireplaces should be arranged so as to allow the whole of one side of any room to be left free for the groups of desks.

RULE 2.—CENTRAL HALLS.

A central hall should have a floor-space of about $3\frac{1}{2}$ but not exceeding 4 square feet for each scholar for whom the school is recognised. The hall must be fully lighted, warmed, and ventilated.

(a) A single central hall may be provided for the joint use, at separate times, of two departments, provided that it is so placed as to be readily accessible from the class-rooms of each department.

(b) Where outdoor space is not available, physical training should be given in the central hall (or corridor). This purpose should be taken into consideration at the time when the building is planned. Since fixed gymnastic apparatus is unsuitable for children under 14 years of age, a separate gymnasium is not required, and cannot be approved (Schedule III. of the Code, 1 and 4).

RULE 3.—CORRIDORS.

Large schools not built with a central hall must be provided with a wide corridor giving access to the rooms.

A corridor should be fully and directly lighted and ventilated, and from 8 to 12 feet wide, according to the size of the school. Two or three of the rooms ought to be separated only by movable partitions, in order to secure flexible working.

RULE 4.—SCHOOL-ROOMS.

A school-room should never be designed for more than 120 children, and a room of even smaller size is desirable. The proper width is from 18 to 22 feet, according to the kind and arrangement of the desks (Rule 15); but very small school-rooms need not be more than 16 feet wide.

No school-room lighted from one side only can be approved. The gable ends should be fully utilised for windows, and there should be no superfluous windows opposite the teacher.

A school-room, which has no class-room attached, should not contain more than 600 square feet of floor-space.

RULE 5.—CLASS-ROOMS.

The number of class-rooms should be sufficient for the size and circumstances of the school.

(a) The class-rooms should never be passage-rooms from one part of the building to another, nor from the school-rooms to the playground or yard. Both school-rooms and class-rooms must have independent entrances. Every room should be easily cleared without disturbance to any other room.

(b) A class-room should not be planned to accommodate more than from 50 to 60 children; but in special cases somewhat larger rooms may be approved. The minimum size is 18 feet by 15 feet, but if the desks are arranged parallel to the longer side of the room, the width should be not less than 16 feet. In the absence of supplementary light the measurement from the window-wall in a room 14 feet high should not exceed 24 feet 8 inches.

RULE 6.—ACCOMMODATION.

The accommodation of a school for older scholars is based upon the number of children who can be seated at the desks, arranged in accordance with Rule 15, provided that a minimum of 10 square feet of floor-space per child is obtained.

A central hall will not be counted in the accommodation, nor will a class-room for cookery, laundry, manual instruction, drawing, or science.

RULE 7.—WALLS, FLOORS, AND ROOFS.

The walls of every room used for teaching, if ceiled at the level of the wall-plate, must be at least 12 feet high from the level of the floor to the ceiling; if the area of the room exceed 360 square feet, the height must be not less than 13 feet, and, if it exceed 600 square feet, then the height must be at least 14 feet.

(a) The walls of every room used for teaching, if ceiled to the rafters and collar beam, must be at least 11 feet high from the floor to the wall-plate, and at least 14 feet to the ceiling across the collar beam.

(b) Great care should be taken to render the roofs impervious to cold and heat.

(c) Roofs open to the apex are very undesirable. They can only be permitted where the roofs are specially impervious to heat and cold, and where apex-ventilation is provided. Iron tie-rods are least unsightly when placed horizontally.

(d) The whole of the external walls of the school and residence must be solid. If of brick, the thickness must be at least one brick and a half; and, if of stone, at least 20 inches; where hollow walls are proposed, one portion must have the full thickness required for a solid wall.

(e) All walls, not excepting fence walls, should have a damp-proof course just above the ground line.

(f) The vegetable soil within the area of the building should be removed, the whole space covered by a layer of concrete not less than 6 inches thick, and air bricks inserted in *opposite* walls to ensure a through current of air under floors for ventilation to joists.

(g) Timber should be protected from the mortar and cement by asphalt or tar.

RULE 8.—ENTRANCES.

Entrances should be separate for each department and each sex. In large schools more than one entrance to each department is desirable. (*See also* Rule 9.) The principal entrances should never be through the cloak-room. Entrance-doors should open outwards as well as inwards. A porch should be external to the school-room. An external door, having outside steps, requires a landing between the door and the threshold.

RULE 9.—STAIRCASES.

There must be separate staircases for each sex and each department. Every staircase must be fire-proof, and external to the halls, corridors, or rooms. Triangular steps or 'winders' must not be used. Each step must be about 13 inches broad and not more than $5\frac{1}{2}$ to 6 inches high. The flights must be short, and the landings unbroken by steps. The number of staircases must be sufficient not only for daily use, but also for rapid exit in case of fire or panic. For any upper floor accommodating more than 250, a second staircase is essential.

RULE 10.—CLOAK-ROOMS AND LAVATORIES.

Cloak-rooms should not be passages, and should be external to the school-rooms and class-rooms, with gangways at least 4 feet wide between the hanging-rails, and amply lighted from the end. They should not be placed against the gable wall (*see* Rule 4). The hanging-rail should be arranged so that the children can enter and leave the cloak-room without confusion or crowding. Hat-pegs should be 12 inches apart, numbered, and of two tiers. The lineal hanging space necessary to provide a separate peg for each child is thus 6 inches.

Thorough ventilation is essential, so that smells are not carried into the school.

Lavatory basins are needed (*see* Rule 14 (h)). Girls' schools require a larger number than boys' or infants'.

A lock-up slop sink, water-tap, and cupboard are desirable for the caretaker.

RULE 11.—LIGHTING.

Every part and corner of a school should be fully lighted. The light should as far as possible, and especially in class-rooms, be admitted from the left side of the scholars. (This rule will be found greatly to influence the planning, *see* Rules 4, 11 (b) and 12 (a).) All other windows in class-rooms should be regarded as supplementary or for ventilation. Where left light is impossible, right light is next best. Windows full in the eyes of teachers or scholars are under no circumstances approved. In rooms 14 feet high, any space beyond 24 feet from the window-wall is insufficiently lighted. (*See* Rule 5 (c)).

(a) Windows should never be provided for the sake merely of external effect. All kinds of glazing which diminish the light and are troublesome to keep clean and in repair must be avoided. A large portion of each window should be made to open for ventilation and for cleaning.

(b) The sills of the main lighting windows should be placed not more than 4 feet above the floor; the tops of some windows should reach nearly to the ceiling, with a portion made to swing. The ordinary rules respecting hospitals should here be remembered. Large spaces between the window heads and ceiling are productive of foul rooms.

(c) Skylights are objectionable. They cannot be approved in school-rooms or class-rooms. They will only be allowed in central halls having ridge or apex ventilation.

(d) The colouring of the walls and ceilings and of all fittings in the rooms should be carefully considered as affecting the light. This point and the size and position of the windows are especially important in their bearing on the eyesight of the children.

RULE 12.—VENTILATION.

The chief point in all ventilation is to prevent stagnant air; particular expedients are only subsidiary to this main principle.

Apart from open windows and doors there must be provision for copious inflow of fresh air, and also for the outflow of foul air at the highest point of the room. The best way of providing the latter is to build to each room a separate air chimney carried up in the same stack with smoke flues. An outlet should be by a warm flue or exhaust, otherwise it will frequently act as a cold inlet. Inlets are best placed in corners of

rooms furthest from doors and fire-places, and should be arranged to discharge upwards into the room. Gratings in floors should never be provided. Inlets should provide a minimum of $2\frac{1}{2}$ square inches per child and outlets a minimum of 2 inches. All inlets and outlets should be in communication with the external air.

Besides being continuously ventilated by the means above described, rooms should as often as possible be flushed with fresh air admitted through open windows and doors. Sunshine is of particular importance in its effects on ventilation and also on the health of children.

(a) Although lighting from the left hand is considered so important, ventilation demands also the provision of a small swing window as far from the lighting as possible, and near the ceiling.

RULE 13.—WARMING.

The heat should be moderate and evenly distributed so as to maintain a temperature of from 56 degrees to 60 degrees. When a corridor or lobby is warmed, the rooms are more evenly dealt with, and are less liable to cold draughts. Where schools are wholly warmed by hot water, the principle of direct radiation is recommended. In such cases open fireplaces in addition are useful for extra warming on occasions, and their flues for ventilation always.

(a) A common stove, with a pipe through the wall or roof, can under no circumstances be allowed. Stoves are only approved when—

- (i) provided with proper chimneys (as in the case of open fires);
- (ii) of such a pattern that they cannot become red-hot, or otherwise contaminate the air;
- (iii) supplied with fresh air, direct from the outside, by a flue of not less than 72 inches superficial; and
- (iv) not of such a size or shape as to interfere with the floor-space necessary for teaching purposes.

(b) A thermometer should always be kept hung up in each room.

(c) Fireplaces and stoves should be protected by fireguards.

RULE 14. SANITARY ARRANGEMENTS.

Water-closets within the main school building are not desirable, and are only required for women teachers. All others should be at a short distance, and completely disconnected from the school. Privies should be fully 20 feet distant.

(a) The latrines and the approaches to them must be wholly separate for the two sexes. In the case of a mixed school this rule especially affects the planning. Passages or corridors should not be used by both sexes; where such an arrangement is unavoidable, there must be complete supervision from the class-rooms by sheets of clear glass.

(b) Each closet must be not less in the clear than 2 feet 3 inches wide, nor more than 3 feet, fully lighted and ventilated, and supplied with a door. The doors should be at least 3 inches short at the bottom and at least 6 inches short at the top. More than one seat is not allowed in any closet.

(c) The children must not be obliged to pass in front of the teacher's residence in order to reach their latrines.

(d) The following table shows approximately the number of closets needed:—

			For Girls.	For Boys.	For Infants.
Under 30 children	.	.	2	1	2
" 50 "	.	.	3	2	3
" 70 "	.	.	4	2	3
" 100 "	.	.	5	3	4
" 150 "	.	.	6	3	5
" 200 "	.	.	8	4	6
" 300 "	.	.	12	5	8

There should be urinals in the proportion of 8 feet per 100 boys.

(e) Earth or ash closets of an approved type may be employed in rural districts, but drains for the disposal of slop and surface water are necessary. Cesspits and privies should only be used where unavoidable, and should be at a distance of at least 20 feet from the school. [Building form 'A,' which may be obtained on application, gives suggestions as to their construction and arrangement.] The proximity of drinking wells should be carefully avoided.

(f) Soil-drains must always be laid outside the building (on a hard even bottom of

concrete) in straight lines with glazed stoneware pipes, carefully jointed in cement and made absolutely water-tight. A diameter of 4 inches is sufficient except for drains receiving the discharge of more than 10 closets, when the diameter should be 6 inches. The fall should never be less than 1 in 30 for 4-inch, and 1 in 40 for 6-inch drains. An inspection opening or chamber should be provided at each change of direction so as to facilitate cleansing the drain without opening the ground. Every soil-drain must be disconnected from the main sewer by a properly constructed trap placed on the line of drain between the latrines and the public sewer. This trap must be thoroughly ventilated by at least two untrapped openings; one being the 4-inch soil pipe carried up full size above the roof, and the other an inlet pipe connected with the side of the trap furthest from the public sewer. Automatic flushing tanks are desirable where trough closets are used.

(g) Urinals must in all cases have a sufficient supply of water for flushing.

(h) Waste pipes from sinks or lavatories should be first trapped inside and then made to discharge direct through an outer wall over a trapped gully.

RULE 15.—DESKS.

Seats and desks should be provided for all the children, graduated according to their ages, and placed at right angles to the window-wall. (See also Rules 4 and 11.) The seats should be fitted with backs.

An allowance of 18 inches per scholar at each desk and seat will suffice (except in the case of the dual desk), and the length of each group should therefore be some multiple of 18 inches, with gangways of 18 inches between the groups and the walls. In the case of the dual desk the usual length is 3 feet 4 inches, and the gangways 1 foot 4 inches.

(a) No desks should be more than 12 feet long. In an ordinary class-room five rows of long desks or six rows of dual desks are best; but in a school-room or room providing for more than 60 children, there should not be more than four rows of long desks or five rows of dual desks.

If a school-room is 18 feet wide, three rows of long desks or four of dual desks may be used; if the width is 22 feet, the rows may be four and five respectively.

Long desks should be so arranged that the teacher can pass between the rows. Where dual desks are used this is not necessary, as the gangways give sufficient access.

(b) The desks should be very slightly inclined. An angle of 15 degrees is sufficient. The objection to the flat desk is that it has a tendency to make the children stoop. A raised ledge in front of a desk interferes with the arm in writing. The edge of the desk when used for writing should be vertically over the edge of the seat.

(c) Single desks are not necessary in an ordinary public elementary school and cannot be approved.

RULE 16.—SITES AND PLAYGROUNDS.

Every school must have an open, airy playground proportioned to the size and needs of the school, and the site should, if possible, have a building frontage in proportion to its area. A site open to the sun is especially valuable for the children, and important in its effects on ventilation and health. The minimum size of site is, in the absence of exceptional circumstances, a quarter of an acre for every 250 children, irrespective of the space required for a teacher's or caretaker's house, or for a cookery or other centre. If the school is of more than one storey this area may be proportionately reduced; but a minimum unbuild-on or open space of 30 square feet per child should be preserved.

(a) In the case of a mixed school of large size, playgrounds should be separate for boys and girls, and should, where practicable, have separate entrances from the road or street.

(b) All playgrounds should be fairly square, properly levelled, drained, and enclosed. A portion should be covered, having one side against the boundary wall. A covered-way should never connect the offices with the main building; buttresses, corners, and recesses should be avoided.

(c) An infants' school should have its playground on the same level as the school, and a sunny aspect is of special importance.

RULE 17.—INFANTS' SCHOOLS.

Infants should not, except in very small schools, be taught in the same room with older children, as the methods of instruction suitable for infants necessarily disturb the discipline and instruction of the other scholars. Access to the infants' room should not be through the older children's school-room.

(a) The partition between an infants' room and any other school-room should be impervious to sound, and there should be no habitual means of direct communication other than an ordinary door.

(b) An infants' school and playground must always be on the ground floor.

(c) No infants' class-room should accommodate, as a rule, more than 60 infants.

(d) A space in which the children can march and exercise should be provided. A corridor intended for this purpose should not be less than 16 feet wide.

(e) The babies' room should always have an open fire, and should be maintained at a temperature of not less than 60 degrees.

(f) In infants' schools an allowance of 16 inches per child at long desks will be sufficient. Dual desks should be 3 feet long.

(g) The accommodation of an infants' school is based upon the number of children who can be seated at the desks, provided that a minimum of 9 square feet of floor-space per child is obtained.

RULE 18.—ROOMS FOR COOKERY, MANUAL INSTRUCTION, ETC.

As a rule a single room for cookery, or laundry-work, or manual instruction, or science, or drawing, will serve for more than one school if provided as a centre in a convenient position. Every such centre should have its own lavatory and cloak-room.

Large schools, or schools of an exceptional type, may sometimes require special rooms for their exclusive use.

(a) *Cookery.*

A cookery-room should be capable of accommodating 12 to 18 at practice or 36 to 54 at demonstration at any one time. The larger size will require 750 superficial feet and 10,500 cubic feet. Provision for instruction in scullery-work is necessary.

The sink should be placed in full view of the teacher and children, and should be fitted with a cold-water supply and a waste pipe.

There should also be a gallery or raised platform with desks to accommodate 36 to 54 children, according to the size of the room.

The floor-space for practical work should afford about 20 square feet for each scholar, and should not be encumbered with desks, cupboards, or stoves.

In cookery-rooms the ventilation needs special arrangements. Where a gas stove is used, it may be necessary to have a pipe fixed to carry off noxious fumes. The temperature should not be allowed to rise above 70 degrees.

The apparatus for lessons in cookery should include such stoves and other appliances as are usually found in the homes of the children.

(b) *Laundry-work.*

A laundry should be of simple construction, and entirely apart from the ordinary school buildings.

The proper size for a laundry is about 750 square feet. It should have a gallery or raised platform with desks for 42 children.

Laundry-tables should be large enough to allow at least three feet of space for each child when ironing.

The ventilation of rooms for laundry-work needs special arrangements.

(c) *Manual instruction.*

In its plan, arrangements, construction, lighting, and ventilation, a manual instruction room should be modelled on a workshop rather than on a school. The construction should accordingly be simple. The roof may be either of lean-to or other ordinary form, according to circumstances. Its height at the windows in front of the benches need not be more than 10 feet. The light must be ample. The temperature should not be so high as in an ordinary class-room. A flat ceiling is not, as a rule, necessary. Ample ventilation should be provided by inlets at a height of 5 feet from the floor, and by outlets at the highest point.

(d) *Science-room.*

A room suitably fitted for elementary practical work in science may be provided for the use of one large or several contributory schools. Such a science-room should not, as a rule, contain more than 600 square feet of floor-space. It should be fitted with strong and plain tables, sinks, cupboards, and shelves, and where necessary, a fume closet. A proper supply of gas is necessary.

In addition to a science-room, one of the ordinary class-rooms may be fitted with a

simple demonstration-table and gas and water supply. But a special lecture-room cannot be approved in an ordinary public elementary school.

(e) *Drawing class-rooms.*

A drawing class-room can only be sanctioned where it is likely to be used for a reasonable time every week by the scholars from one large or several contributory schools. A suitable size for such a room is 600 square feet of floor-space.

RULE 19.—HIGHER ELEMENTARY SCHOOLS.

For a higher elementary school, accommodating from 300 to 350 scholars, 10 class-rooms will generally be required, since every class should have its own class-room. No class-room should accommodate more than 40 scholars.

- (a)—(i) The class-rooms may be furnished with single or dual desks as may be desired. Single desks should be 2 feet long, arranged in pairs, with intervals of 2 inches, and gangways of 2 feet.
- (ii) If single desks are adopted, a class-room should have an area of about 16 square feet per scholar. Class-rooms fitted with dual desks need not be so large, but a minimum of about 13 square feet per scholar will be required.
- (b) Every higher elementary school should be provided with suitable laboratories.
 - (i) The laboratory accommodation must be sufficient to provide at one time for the largest class in the school.
 - (ii) There should generally be one laboratory for chemistry and one for physics.
 - (iii) A laboratory should afford 30 square feet of floor-space for each scholar; the minimum size will, therefore, be 600 square feet, but it is as a rule desirable that the laboratory should be somewhat larger. If, however, the laboratory accommodates more than 25 scholars, a second teacher would be required.
 - (iv) Laboratories must be fitted with suitable tables, which must be well lighted; they should be properly supplied with gas and water. For chemical laboratories, sinks, cupboards, and the necessary fume closets must be provided.
 - (v) A small balance room may be provided if desired.
- (c)—(i) In addition to the class-rooms and laboratories a higher elementary school may include a lecture-room, which should be fitted with (1) a demonstration-table furnished with a gas and water supply and a sink, and (2) a fume closet. A lecture-room should have an area of about 750 square feet.
- (ii) If no separate lecture-room is provided, each of the class-rooms used by the third and fourth years should be fitted with a simple demonstration-table.
- (iii) A small preparation room, fitted with bench, sink, cupboard, and shelves, and proper supply of gas should be provided in a convenient position.
- (d) A drawing class-room for the more advanced drawing is desirable. It should provide 30 square feet of floor-space for each scholar; the best size will be a room with an area of 750 square feet. If suitably lighted, the hall would answer for this purpose.
- (e) Other special rooms for cookery, laundry-work and manual instruction should be provided in accordance with Rule 18.
- (f) A higher elementary school should be planned with a central hall; but no class, other than drawing, can be recognised in such a hall. Good dimensions for such a hall would be 50 feet by 25 feet.

RULE 20.—TEACHER'S HOUSE, ETC.

The residence for the master or mistress should contain a parlour, a kitchen, a scullery, and three bedrooms, and the smallest dimensions which the Board can approve are:—

For the parlour	14 ft. by 12	} of super- ficial area	9 ft. } 9 ft. } 8 ft. if ceiled at wall-plate; or 7 ft. to wall-plate, and 9 ft. to ceiling.
„ kitchen	12 ft. by 12		
„ one of the bedrooms	14 ft. by 12		
„ two other bedrooms	12 ft. by 8		

(n) The residence must be so planned that no room is a passage-room, and that the chimneys are not all on the external walls.

- (b) There must be no internal communication between the residence and the school.
- (c) Windows should be carried up as nearly to the ceiling as practicable.
- (d) There must be a separate and distinct yard with offices.
- (e) No dwelling-house should be built as part of the schoolhouse.

RULE 21.—LOANS.¹

The Board do not entertain applications for loans in respect of expenditure incurred without their previous sanction, which is based on plans, specifications, and actual tenders. Applications for loans should therefore include all the items in the first instance.

In order to secure due economy and the avoidance of confusion at completion, a provisional prime-cost amount of not less than 2½ per cent. may, if considered desirable, be included in building contracts in view of unavoidable contingencies, but the contract should contain a clause that no claim for extras can be even considered, unless the work has been ordered in writing by the architect, and the order bears the counter-signature of the clerk of the school board.

RULE 22.—LIMITS AND ALLOWANCES.¹

No loan of money can be obtained from the Public Works Loan Commissioners unless the whole cost of the school, exclusive of site, legal expenses, extra rooms for instruction authorised by the Code, and residences (if any), is kept within the sum of £10 per child accommodated.

(a) Additional allowances will be made on the following scale :—

For a central hall or corridor	15s. 0d. per square foot.
„ cookery or laundry-room	£1 0s. 0d. „ „
„ manual instruction room	10s. to 15s. „ „
„ science-room, laboratory, or drawing class-room	£1 0s. 0d. „ „
„ teacher's room	15s. 0d. „ „
„ teacher's house	£500 to £750.
„ caretaker's house	not more than £400.

For glazed bricks and fire-proof floors (when necessary) allowance will be made according to the circumstances of the case.

Allowance for mechanical ventilation will only be made in districts where the air ought to be filtered before entering the building.

(b) No additional allowance will be made in respect of any room which exceeds the maximum size specified in these rules, in so far as regards such excess.

(c) Whether the necessary loan be borrowed in the open market or not, extravagant plans cannot be approved.

¹ These Rules will now be applicable only to any school board loans sanctioned by the Board of Education before the 'appointed day' under the Education Act, 1902. In virtue of §19 (1) of that Act (p. 135) it will be for the Local Government Board, and not for the Board of Education, to sanction the borrowing of money by local education authorities for the purposes of public elementary schools.

PREFATORY NOTE

TO THE

REGULATIONS for Secondary Day Schools and for Evening Schools.

THE conditions on which grants in respect of instruction in science and art were made by the Science and Art Department, which in 1900 became merged in the Board of Education as established under the Board of Education Act, 1899, were annually published in a volume known as the 'Directory.' The conditions of the Directory were applicable both to day schools and classes and to evening schools and classes, but evening schools and classes were also eligible to receive grants from the Board of Education under a body of regulations, also published annually, known as the Evening Continuation Schools Code. Under this Code grants were payable in respect of instruction in literary and commercial subjects and in manual work, as well as in respect of instruction in science and art of a more elementary character than that contemplated by the Directory. This Code was issued for the last time in 1900, and in 1901 the first step was taken in the process of bringing the whole of the evening school work of the country under one body of regulations, and under a single administration, by means of the issue of a Minute (dated the 3rd July 1901) which superseded, with certain modifications, the Evening Continuation Schools Code, and, while technically incorporating the Directory, so far as the science and art grants payable to evening schools and classes were concerned, provided an alternative system for the payment of these grants. The Directory for the session 1901-1902 had, however, already been published at the date when this Minute was issued, and during that session therefore there was still to some extent a two-fold system in operation.

For the session 1902-1903 the whole of the regulations included in the above-mentioned publications have been re-modelled, and issued in the following form :—

- (1.) Regulations for Secondary Day Schools.
- (2.) Regulations for Evening Schools.
- (3.) Supplementary Regulations for Secondary Day Schools and for Evening Schools.

The first two sets of these regulations, and §§1 to 3 of the 'supplementary regulations,' are given in the following pages. The remainder of the latter volume contains detailed regulations respecting examinations held, and prizes given, by the Board, syllabuses of instruction and examination, and reprints of official forms used in connection with the regulations.

BOARD OF EDUCATION

REGULATIONS FOR SECONDARY DAY SCHOOLS.

Parliamentary Grant.

1. The sum granted by Parliament for Secondary Day Schools will be administered by the Board of Education under the following regulations.

Conditions of Grant.

2. A school or class must be efficient and necessary for the circumstances of the locality; must not compete unduly with a neighbouring school; and from its character and financial position must be eligible to receive aid from public funds.

3. It must be open at all times to the inspection of the officers of the Board.

Revision of Grant.

4. If any of the conditions on which the grant is awarded are not fulfilled, or if the instruction or management is inefficient, the Board may withhold the grant, or, if they think fit, pay the grant with or without deductions, warning the managers that a grant will not again be paid under similar circumstances. Grants may be refused on students in any course whom the inspector reports as unqualified from want of sufficient preliminary training, or other cause, to take advantage of the instruction given in it.

Local Support.

5. Grants are intended to supplement and not to supersede local effort, and must be expended to the satisfaction of the Board.

The Board consider that at least 25 per cent. of the expenditure of a school should be met by local contributions, such as fees, subscriptions, grants from the local authority, or endowments.

Management.

6. Every school must be under the superintendence of a body of managers responsible to the Board, and the courses of instruction must be approved by the Board. The managers must appoint a person to act as correspondent with the Board.

Application of Income.

A full account of the income and expenditure of all schools must be furnished annually to the Board.

Local Authorities as Managers.

7. In counties and county boroughs which possess an organisation for the promotion of Secondary Education, such organisation if recognised by the Board may notify its willingness to be responsible, within its area, to the Board for instruction in schools aided by grants under these regulations.¹ In such case grants will, in general, be

¹ The Departmental Committee appointed in 1896 to inquire into the distribution of Science and Art Grants recommended, with a view to the better local organisation of secondary and technical education, the insertion of the following new clause in the Directory:—

In counties and county boroughs in England possessing an organisation for the promotion of Secondary Education, the Authority so constituted may notify its willingness to be responsible

made to the managers of new schools only if they are acting in unison with such organisation. The rights of managers of existing schools will not be interfered with.

Premises and Equipment.

8. The premises must be sanitary, convenient for teaching purposes, adapted to the circumstances of the school, and provided with satisfactory equipment and appliances.

Qualifications of Teachers.

9. The teaching staff must be sufficient. The teachers must, as a rule, be paid fixed salaries. They must possess such qualifications as may be required by the Board, and their employment at other times must not be such as will prevent the efficient discharge of their duties at the school. For qualifications *see* Supplementary Regulations.

SCIENCE AND ART DAY CLASSES.

10. The conditions for grants laid down in the Regulations for Evening Schools¹ apply to Science and Art Day Classes with the following modifications:—

(a) Payments will only be made on account of subjects under Divisions II. and IV. in §20 of those Regulations.

(b) The rate of grants payable under Division IV. will for Elementary work be from 1s. 6d. to 4s. 6d., and for Advanced work (including Honours, Part I. of the Syllabus on which examinations are held) from 1s. 6d. to 10s.

For systematic practical instruction the maxima will be 6d. 6d. and 12s. 6d. respectively.

Up to 320 hours of instruction may be counted per student, of which the hours between 240 and 320 will be paid upon at the minimum rate.

Future Restrictions.

After the 31st July 1904 no grants will be paid under this section in respect of instruction given in any school which is eligible for aid under Divisions A or B (*see infra*).

SECONDARY DAY SCHOOLS.

DIVISION A.

(Schools formerly called Schools of Science.)

General Conditions.

11. The instruction must be carried on in day classes methodically according to one or other of the courses laid down, or according to a course framed on similar lines which has been specially submitted to and approved by the Board. No school will be recognised unless it has at least twenty qualified students, nor will it continue to be recognised beyond two years after its formation unless it has a fair proportion of students taking the advanced course.

for the Science and Art Instruction within its area. In such case, while the rights of the managers of existing schools and classes will be preserved, no managers of a new school or class will, except under special circumstances, be recognised unless they are responsible to such authority. In Wales the Intermediate Education Authority is for this purpose regarded as the authority for the promotion of Secondary Education.

A sentence, substantially to this effect, was added to Clause VII. of the Directory for 1897, and recognition under it has been accorded to the councils, or to the Technical Instruction Committees of the councils, of 89 counties and of 27 county boroughs, exclusive of Wales and Monmouthshire.

¹ The Board of Education state that inclusion of the teacher's name in Column B of the Official Register of Teachers will be accepted (*see* p. 668).

² For the Regulations for Evening Schools, *see* pp. 649 to 654.

Inspection under Board of Education Act, 1899.

12. Any school applying for recognition under this Division will be deemed to have applied for inspection of the school as a whole under the Board of Education Act, 1899,¹ as a condition of its acceptance.

13. The school must provide a thorough and progressive course in science, together with the subjects of a general education.

Students whom the inspector considers to be unfitted to benefit by the course, and students under twelve years of age, unless specially allowed by the inspector, must be excluded.

Laboratories and Time-tables.

14. A school must possess such properly equipped laboratories as are necessitated by the courses, and they must be available for preparation work by students of the school, beyond the school hours of the time-table. A time-table of the school, framed in accordance with the provisions of this Division, must be submitted on Form 122 not later than the first week of each school year. Such time-table must be approved by the Board, and a copy of it conspicuously exhibited in the school, and it must not be modified without notice.

Registration.

15. The attendance of the students must be recorded on the special attendance register (Form 486d), separate copies being kept for each division of the elementary and advanced courses respectively. Not more than two attendances may be registered for any one student on any one day.

Instruction.

16. Not less than thirteen hours per week must be allotted to instruction in the obligatory subjects, of which not more than five hours may be allotted to mathematics. Not less than ten hours must be allotted to the other approved subjects, which must include English subjects and at least one foreign language. Two of these ten hours may be allotted to some form of manual instruction, and two others of them to mathematics or art.

Each lesson in practical work in a subject of science must be of at least one hour and a half's duration, and any other lesson in subjects of science or art must be of at least forty minutes' duration.

Elementary Courses.

17. The elementary course may extend over two years, to afford sufficient time for thorough and progressive instruction.

Reasonable latitude will be allowed to the teacher in the preparation of a scheme of instruction, provided it is sound, satisfactory in amount, and makes provision for proper practical work.

GENERAL ELEMENTARY COURSE.*Obligatory Subjects.*

1. Mathematics (as in Stage 1, of Subject V.² or of Subject V. p.).
2. Physics, including the fundamental principles of Mechanics (theoretical and practical).
3. Chemistry (theoretical and practical).
4. Drawing. (Suggestions will be found in the Circular on Primary Drawing issued by the Board.)
5. Practical Geometry.

¹ See §42, *infra*, and §3 of the Board of Education Act, 1899, and the note thereon, p. 893.

² Where subjects of Science or Mathematics are referred to by means of a Roman numeral, the reference is to the list of subjects in which the Board of Education hold examinations given in §3 of the Supplementary Regulations (p. 657).

ALTERNATIVE COURSE FOR GIRLS.

18. In the case of girls, instruction in one of the biological subjects XIV., XV., or XVII., may, with the approval of the Board, be substituted for Physics, and either Elementary Science, including the fundamental principles of Chemistry and Physics, or Hygiene §I. of Subject XXV. for Chemistry. Practical work will be required in each case.

Advanced Courses.

19. On the completion of the elementary course the work of the students should be specialised in one of the following advanced courses. Students should not be admitted to these courses unless they are fully qualified to take advantage of the advanced instruction. When a school wishes to develop art instruction, it should submit a special advanced course, and may at the same time suggest a slight modification of the prescribed elementary course with a view to rendering it a suitable introduction to the advanced teaching.

Stages to be Taught.

20. Where the stage of the subject to be taken is not stated in the advanced courses any stage may be taught; but in those subjects which formed part of the elementary course the advanced stage or honours must be taken.

When a student has received two years' instruction under the Board in practical geometry, it ceases to be an obligatory subject so far as that student is concerned, and, in its place, one of the optional subjects may be submitted for approval.

21. A special advanced curriculum for those students who have completed one of the advanced courses laid down in the three following sections may be submitted to the Board for approval. It must be in continuation of the advanced course which the student has already followed, but the time devoted to subjects outside that course may be curtailed to six hours per week.

22.

A.—PHYSICAL COURSE.

Obligatory Subjects.

1. Mathematics, Subject V., Stage 2, 3, or 4, or Subject V. p., Advanced Stage.
2. Geometry, Subject I., Advanced Stage.

The Elementary Stage may be taken, provided that a fair proportion of the students are instructed in the Advanced Stage.

3. A general course in Advanced Physics approved by the Board, or
 Sound, Subject VIIIa., or Light, Subject VIIIb.,
 or Heat, Subject VIIIc., or Magnetism and Electricity, Subject IX. | Advanced Stage with
 Practical Instruction.
4. Inorganic Chemistry, Subject X. (Theoretical and Practical), Advanced Stage.

Optional Subjects.

5. Theoretical Mechanics, Subject VI., Divisions a or b.
6. Physiography, Subject XXIII.
7. Organic Chemistry, Subject XI. (Theoretical and Practical.)
8. Art of a more advanced character than that taken in the Elementary Course.

B.—MECHANICAL COURSE.

Obligatory Subjects.

1. Mathematics, Subject V., Stage 2, 3, or 4, or Subject V. p., Advanced Stage.
2. Geometry, Subject I., Advanced Stage.

The Elementary Stage may be taken, provided that a fair proportion of the students are instructed in the Advanced Stage.

3. A general course in Advanced Physics approved by the Board, or Heat, Subject VIIIc., or Magnetism | Advanced Stage with Practical Instruction. and Electricity, Subject IX.
4. A general course in Theoretical and Applied Mechanics with practical work, or Theoretical Mechanics, Subject VI., Divisions *a* and *b*, together with Applied Mechanics, Subject VII., or Steam, Subject XXII.

Practical work must be taken in at least one of the divisions of Mechanics.

Optional Subjects.

5. Inorganic Chemistry, Subject X., Theoretical and Practical, Advanced Stage.
6. Machine Construction and Drawing, Subject II., or Building Construction, Subject III.
7. Art of a more advanced character than that taken in the Elementary Course.

C.—BIOLOGICAL COURSE.

Obligatory Subjects.

1. Geometry, Subject I., Advanced Stage.
The Elementary Stage may be taken, provided that a fair proportion of the students are instructed in the Advanced Stage.
2. Physiology, Subject XIV., with practical instruction, or General Biology, Subject XV., with practical instruction.
3. Botany, Subject XVII., with practical instruction.
4. Inorganic Chemistry, Subject X., Theoretical and Practical Advanced Stage.

Optional Subjects.

5. A course in Electricity, of the nature which will be of use in Physiological Study, with practical instruction.
6. Mathematics, Subject V., Stage 2, 3, or 4, or Subject V. p., Advanced Stage.
7. A general course in Advanced Physics approved by the Board, or Sound, Subject VIIa., or Light, Subject | Advanced Stage with Practical VIIIb., or Heat, Subject VIIIc. | Instruction.
8. Hygiene, Subject XXV.
9. Art of a more advanced character than that taken in the Elementary Course.

D.—ALTERNATIVE COURSE FOR GIRLS.

Obligatory Subjects.

1. Mathematics, Subject V., Stage 2, 3, or 4, or Subject V. p., Advanced Stage.
2. Geometry, Subject I., Elementary or Advanced Stage. (This subject becomes an optional subject where Practical Geometry has been taken in the Elementary Course.)
3. Hygiene, Subject XXV.
4. Physiology, Subject XIV., or | With Practical Instruction in any two Botany, Subject XVII. | of these subjects.
5. Physiography, Subject XXIII.

Optional Subject.

6. Art of a more advanced character than that taken in the Elementary Course.
Any Advanced Course submitted as an alternative to the above must include Hygiene.

Special Courses for Schools in Rural Districts.

23. The following courses may be adopted by schools in rural districts :—

ELEMENTARY COURSE.*Obligatory Subjects.*

1. Mathematics.
 2. Elementary Science, including the fundamental principles of Chemistry and Physics (with practical work).
 3. Biology or Botany (practical work may be in the farm, field or garden).
 4. Drawing, Modelling, Practical Geometry, or Practical Mathematics.
- Manual Instruction in its application to workshop and garden must also form part of the course.

ADVANCED COURSE.

Not less than four of the following subjects should be selected to form the course. Subject to the approval of the Board, any combination of subjects may be chosen which may be suited to the school or the locality :—

1. Agricultural Science and Rural Economy, Subject XXIV. (with practical work).
2. Chemistry applied to Agriculture (with practical work).
3. Botany (with practical work).
4. Biology (with practical work).
5. Physiology (human and animal).
6. Geology (with field work).
7. Zoology.
8. Mechanics (as applied to agricultural processes).
9. Practical Mathematics.
10. Land Surveying.

24. ALTERNATIVE COURSE FOR GIRLS.**ELEMENTARY COURSE.***Obligatory Subjects.*

1. Elementary Mathematics.
 2. Physiography.
 3. Biology.
 4. Botany or Hygiene (obligatory in the second year only).
 5. Drawing, Modelling, or Elementary Practical Geometry.
- This course is intended to cover two years.
Physics or Chemistry may be substituted for Physiography in the second year.

ADVANCED COURSE.

The advanced stage of at least one subject must be taken.

Obligatory Subjects.

1. Mathematics.
2. Botany or Biology.
3. Hygiene or Physiology.
4. Physiography or Physics or Chemistry.
5. Agricultural Science and Rural Economy (Poultry-keeping, Dairying, Bee-keeping, etc.).

Optional Subjects.

One of any of the above subjects not taken, or either Geology or Zoology, or an approved Art subject.

In the courses laid down in this section a minimum of eleven hours weekly must be given to the obligatory subjects. Two hours at least must also be given to Manual subjects, such as Needlework, Cookery, Dairy Work, or Laundry Work.

When the minimum is less than thirteen hours, the total grant will be proportionately diminished; thus for twelve hours the grant would be diminished to $\frac{11}{13}$ ths of the total amount. In the elementary course, practical work in at least one of the obligatory subjects, and in the advanced course in at least two such subjects, must be taken.

MANUAL INSTRUCTION.

25. Manual instruction should form part of the elementary course of each student, unless special exemption is given by the Board, and must be given throughout the school for two hours weekly.

(a) For Boys—The Manual Instruction—

- (i.) must be in the use of the ordinary tools used in handicrafts in wood or iron, and must be given in a properly fitted workshop for at least one hour and a half a week;
- (ii.) must be connected with the instruction in drawing, that is to say, the work must be from drawings to scale previously made by the scholars for half an hour a week;
- (iii.) may be given by one of the regular teachers of the school or centre at which the manual instruction is given if he is sufficiently qualified; if not, he must be assisted by a skilled artisan, and care must be taken to make such arrangements as will ensure the maintenance of good order and discipline.

(b) For Girls—Cookery, Laundry Work, Dairy Work, and Needlework should be the manual instruction, of which subjects any one or two may be taken.

GRANTS.

26. After a school has been working for five consecutive years as a recognised school of science, or under the provisions of this division, it will receive, if the Board so determine, an annual grant on each student who has made not less than 250 attendances, provided that the inspector reports that the students have received continuous instruction in the approved course throughout the school year.

Such grant will be equivalent to the amount paid per student in the preceding year in the elementary and advanced courses respectively. The annual grant thus calculated will be subject to reassessment as the result of a detailed inspection, which will be held, as a rule, at intervals not exceeding three years.

27. On any reassessment taking place after July 31st, 1904, the provisions as to the rate of grants contained in §29 will apply to all students in the elementary course, and after July 31st, 1906, to all students.

28. Schools complying with the provisions of this division which were recognised as schools of science before the 31st July 1902, but which have not been working as such for five consecutive years, will continue to have their grants assessed on the scale and subject to the conditions laid down in the Directory of 1901. Such schools may apply to have their grants assessed under the provisions of the following section. After such schools have been working for five consecutive years the grants will be as provided for in §26.

After July 31st, 1904, the grants for students in the elementary course will not exceed the rates laid down in the following section.

29. To schools recognised under the provisions of this division after the 31st July 1902, grants will be paid at the following rates:—

On each student who has made not less than 250 attendances, provided that the inspector reports that the students have received continuous instruction in the approved course throughout the school year—

- in the elementary course from 70s. to 120s.
- in the advanced course from 80s. to 180s.

These grants will be assessed annually on the reports of the inspectors.

Examinations.

30. Students taking the elementary course are not allowed to sit at the May or June science and art examinations. Students taking the advanced course may not sit for elementary stage science and art examinations except for the purpose of competitions for exhibitions and scholarships, in which case special permission must be obtained and the fees for examination must be paid (*see* Supplementary Regulations).

Limitation of Grants.

31. Grants are not payable for more than four years in all on account of any one student.

School Year.

32. The school year terminates on the 31st July unless the Board have sanctioned its termination on the 31st December. Should a school desire to be recognised under this division before the 1st August (or, in the case of a school in which it is proposed that the school year should end on the 31st December, before the 1st January), the Board may allow the attendances made previous to that date to count towards the attendance grant.

Certificates.

33. A student who attends a three or four years' course will be granted a certificate provided that he has obtained a success in the advanced stage, or in honours, of three of the obligatory subjects of his advanced course. This certificate will be issued on application being made by the managers on Form 637, and no other class of certificates will be issued to these schools.

For the award of this certificate Theoretical and Practical Inorganic Chemistry count as but one subject, as do the various stages of Mathematics.

SECONDARY DAY SCHOOLS.

DIVISION B.¹*General Conditions.*

34. A school (not being a public elementary school), conducted in the manner prescribed by §6, may submit a scheme of instruction for a three or four years' course in science for forms in which the average age of the students is above 12, and which are reported by the inspector as able to benefit by such instruction, provided that the number of qualified students is not less than 20.

The time-table of the curriculum of the whole school must be submitted to the Board of Education, showing that in the forms in respect of which grants will be claimed provision is made for not less than nine hours per week of science instruction, including not more than five hours' Mathematics, as in Subject V., Stages 1, 2, 3. Instruction in science must be both theoretical and practical, the latter being conducted in such laboratories as are reported by the inspector to be suitably equipped for the subjects sanctioned.

The requirements as to registration of students and qualifications of teachers are those laid down for Division A. The commencement of any school term may be recognised as the commencement of the school year upon the managers making application to the Board at least one month before the date proposed.

Every student must attend all the yearly courses in the prescribed sequence, except that a student whose previous instruction is equivalent to that given in the course laid down for one or more years may, with the approval of the inspector, be placed in the year's course above that to which he is held to have attained.

¹ The provisions of §34 and §35 were first introduced into the Board of Education's regulations in the Directory of 1901. In these sections grants are offered to schools in which, on account of the time spent upon the literary part of the curriculum, it is impossible to comply with the conditions required to be fulfilled by schools recognised under Division A (schools of science), *see* §16, p. 639.

Grants.

35. Grants will be paid to these schools for each student who has made not less than 240 school attendances, provided that the inspector reports that the students have received continuous instruction throughout the school year, at the following rates :—

For the first 100 students :—

For the 1st and 2nd years' attendance a sum of 50s.

For the 3rd and 4th years' attendance a sum of 70s.

For students in excess of 100 :—

For the 1st and 2nd years' attendance a sum of 40s.

For the 3rd and 4th years' attendance a sum of 60s.

In calculating the payments to schools claiming for students in excess of 100, the numbers in the first 100 on whom the 70s. and 50s. grants respectively will be paid will be determined by the proportion that the total number of 1st and 2nd year's students bears to the total number of 3rd and 4th years' students.

Thus in a school of 160 students on whom a grant is claimable, and of whom 40 are in the 3rd or 4th years, the first 100 payments will be made on 75 1st and 2nd years' students, and 25 3rd and 4th years' students.

From the beginning of the school year 1904-5, 20 per cent. of the students on whom grants are claimable must as a rule be 3rd or 4th year's students, and grants for 1st and 2nd years' students combined will not be claimable on more than four times the number of 3rd and 4th years' students combined.

Inspection under Board of Education Act, 1899.

36. All schools applying for and receiving recognition under this division will be held to have applied for inspection under the Board of Education Act, 1899,¹ and will accordingly be inspected at such periods as the Board shall determine, and the grants may be diminished or withheld should the inspector's report of the general efficiency, and especially that of the science teaching, be unfavourable. The inspection of the science course will not be confined to the periodical inspection above-mentioned, and the school must at all times during the hours of instruction be open to the officers of the Board.

Restrictions.

37. A school recognised under either Division A or Division B will not be eligible for grants in respect of its students for any subject in an evening school under the Board, or for any science subject, or in Division A for any art subject, in day classes under the Board, but if recognised in respect of some of its forms under one division may be recognised in respect of other forms under the other division.

SCHOOLS OF ART.

General Conditions.

38. A School of Art is one in which instruction in art is carried on methodically for about 40 weeks in the year.

The school year will be held to begin on the 1st August and to terminate on the following 31st July. Managers must keep a record of the students who join the school. They are responsible for the accuracy of the registration of the attendance of all students who receive instruction. For detailed rules see Supplementary Regulations.

The work of the school must be carried on under the recognised teachers in day and evening classes. The day classes must meet on at least two days a week for two hours at each meeting, and the evening classes must meet on at least three evenings a week for two hours at each meeting.

¹ See §42 *infra*, and §3 of the Board of Education Act, 1899, and the note thereon, p. 893.

There must be a principal teacher holding an Art Master's Certificate (I.). Specially qualified persons may be exceptionally recognised. The qualifications of other teachers must be submitted to the Board for their approval.

In cases of the principal teacher's illness the Board may, under certain conditions, provide a substitute from the Royal College of Art.

The rooms of a School of Art must be approved by the Board and must be devoted wholly to art instruction. They should be well lighted for drawing from plants and the life, for painting, and for modelling, and suited for elementary and other study and instruction in ornamental and decorative art. The school must be properly equipped for the work included in its curriculum. The managers must submit (on the prescribed form) the time-table and teaching staff for approval as soon as possible after the 1st August, and not later than the 1st September.

It is advisable that a curriculum specially adapted to the needs of the locality should be framed and followed.

Note.—The Advisory Council for art have drawn up specimen courses, which will be found in the Appendix to the Supplementary Regulations, and have indicated in the Prospectus of the Royal College of Art suggestions of a manner in which various branches of study and work in art may be co-ordinated.

The council consider that as a rule students at a School of Art should have passed through instruction corresponding with that of the Primary Course in drawing (pencil and brush work) and modelling, and be qualified for work in the Secondary (i.e.) Advanced Course, the more efficient students taking work in further special courses (*see* Appendix to Supplementary Regulations).

Grants.

39. Schools of Art which have been continuously efficient for the last five years will, as a rule, be paid an annual grant equivalent to the average of the amount received by the school for attendances, results, and works for the last three years. This annual grant will be subject to reassessment, as the result of a detailed inspection, which will be held in general at intervals not exceeding three years.

Schools registered for this annual grant must submit works yearly for the National Competition.

In addition to this annual grant a School of Art can claim :—

Special Payments.

- (a) £3 for a student obtaining a free Studentship tenable at the school or a Local Scholarship (*see* Supplementary Regulations).
- (b) £5 for every student taught in the school who obtains a Royal Exhibition or a National Scholarship, or is admitted as a Student in Training to the Royal College of Art (*see* Supplementary Regulations).
- (c) A sum not exceeding £15 for an Art Pupil teacher in a School of Art in which at least 20 students have been satisfactorily taught; and a further sum not exceeding £15 for a second Art Pupil-teacher, in schools in which there are at least 50 such students. Students are considered to have been taught satisfactorily when their attendance has been regular and they have given, at the inspections or examinations, evidence of their progress during the school year.

One art pupil-teacher may be recognised in a branch school of art provided the instruction in the branch is of an elementary and advanced character.

The grant is to assist managers in training young, deserving, and qualified students to become teachers, and is not claimable in respect of members of the teaching staff.

The managers must annually notify on the prescribed form their nomination of an art pupil-teacher for the approval of the Board. The candidate approved by the Board must have passed in elementary freehand, geometry, model, and perspective drawing, or have obtained corresponding or higher qualifications at the art examinations of the Board. The Board will consider proposals to make appointments outside this rule. The art pupil-teacher, who must not be required to pay fees for instruction, must during the year of his appointment submit works for examination, or sit for examination in subjects other than those in which he had previously obtained success.

No person over 25 years of age may be appointed art pupil-teacher. The appoint-

ment is from year to year. In no circumstances may the same person be continued as art pupil-teacher for more than five years.

An art pupil-teachership cannot be held by a local scholar.

The claim to a full grant under this article must be supported in each case by the art pupil-teacher's receipt for the amount paid to him by the managers in respect of his services for the school year of 12 months ending July 31st.

40. The grants to other schools of art and to all branch schools of art will consist of payments on attendances (*see* §20, Div. 2 of the Regulations for Evening Schools), on results of advanced examinations (*see* §21 of the same Regulations), and for free studentships and art pupil-teachers (*see supra*).

Schools of art and branch schools must submit works for the national competition, and also a selection of school works to illustrate the character of the course of instruction (*see* Supplementary Regulations). These works will be taken into consideration in assessing the attendance grants.

Branch Schools.

A branch school of art must be under the managers of the school of art and in the same district. It must have evening classes open three evenings a week for a school year of about 40 weeks, and must be taught by a teacher holding the art class teacher's or a higher certificate, and acting under the direction of the principal teacher of the school of art, who must supervise the approved course of study and work to be followed at the branch school.

INSPECTION.

Visits of Inspectors.

41. The inspectors of the Board will from time to time visit the schools and report on the sufficiency, condition, and suitability, of the premises and fittings; the sufficiency of the apparatus and equipment; the curriculum; the character and quality of the instruction; the sufficiency of the teaching staff for the number of students under instruction; the progress of the students, which they may test in such manner as may be necessary; the constitution and working of the managing body; and the manner in which the Board's regulations are carried out.

A meeting of the managers, for which sufficient notice will be given, must, if required, be held when the school is inspected.

The inspectors may require the production of the accounts and of any other necessary papers to enable them to verify the income and expenditure in respect of the school.

INSPECTION OF SECONDARY SCHOOLS UNDER SECTION 3 OF THE BOARD OF EDUCATION ACT 1899.

Application for Inspection.

42. The Board will be prepared to conduct an inspection under Section 3 of the Board of Education Act, 1899,¹ upon receiving an application for such inspection from the governing body of the school.

The Board cannot undertake to arrange for an inspection to take place in less than two months from the date on which the formal application for inspection is received.

Extent of Inspection.

The inspection will cover (a) the administration of the school, (b) the condition of the school buildings, and (c) the education given throughout the school.

(a) For the purposes of the administrative inspection there will be a conference between an inspector and the governing body.

¹ See p. 398.

- (b) The inspection of the school buildings will include sanitary inspection, for which purpose a sanitary expert may, in special cases, have to be called in. It will also include an inspection of the provision for recreation and of all boarding-houses conducted by the Governors or under their license or by any member of the school staff.
- (c) The educational inspection will deal with all the subjects comprised in the curriculum of the school, but not by way of systematic examination, either written or oral.

Charge for Inspection.

The charge for inspection, based on the ordinary curriculum, will be as follows, viz. :—

	£	s.	d.
For a school having not more than 50 students	5	0	0
For a school having more than 50 students and not more than 75	7	10	0
For a school having more than 75 students and not more than 100	10	0	0
And so on.			

In assessing the charge for any school not containing a school conducted under Division A (*see* p. 638), every two students above the number of 400 will be counted as one; and for any school containing a school conducted under Division A, every two students in the school under that Division will be counted as one, and should the resulting number in the whole school exceed 400, every two units over 400 will be counted as one.

A minimum charge of £5 will in all cases be made. When a sanitary expert is employed there will be an additional charge for his services.

Report on Inspection.

The report of the Board on the efficiency of the school at the time of inspection will be sent to the governing body, and to the headmaster or the headmistress of the school, and also to the county council, if that body contributes to the cost of the inspection under §3, sub-section 2, of the Act.¹ The report, if published, must be published in its entirety.

Where the school is in receipt of grants from the Board, the inspection will be combined with that required for the assessment of the grant.

Examinations.

43. Examinations are held by the Board under conditions which are stated in the Supplementary Regulations.

Rewards to Students.

44. These consist of certificates, prizes, medals, scholarships, and exhibitions awarded on conditions stated in the Supplementary Regulations.

¹ *See* p. 898.

BOARD OF EDUCATION

REGULATIONS FOR EVENING SCHOOLS.

See Prefatory Note, p. 636.

Parliamentary Grant.

1. The sum granted by Parliament for evening schools will be administered by the Board of Education under the following Regulations.

Conditions of Grant.

2. An evening school must be efficient and necessary for the circumstances of the locality; must not compete unduly with a neighbouring school; and from its character and financial position must be eligible to receive aid from public funds. It must be open at all times to the inspection of the officers of the Board.

Religious Instruction.

3. It shall not be required, as a condition of any student being admitted into or continuing in the school, that he shall attend or abstain from attending any Sunday school or any place of religious worship, or that he shall attend any religious observance or any instruction in religious subjects in the school or elsewhere. The times (if any) during which any religious observance is practised, or instruction in religious subjects is given at any meeting of the school, shall be at the beginning or end of such meeting, and shall be inserted in a time-table to be approved by the Board of Education.

Revision of Grant.

4. If any of the conditions on which the grant is awarded are not fulfilled, or if the instruction or management is inefficient, the Board may withhold the grant, or, if they think fit, pay the grant with or without deductions, warning the managers that a grant will not again be paid under similar circumstances. Grants may be refused on students in any course whom the inspector reports as unqualified from want of sufficient preliminary training, or other cause, to take advantage of the instruction given in it.

Local Support.

5. Grants are intended to supplement and not to supersede local effort, and must be expended to the satisfaction of the Board.

The Board consider that at least 25 per cent. of the expenditure of a school should be met by local contributions, such as fees, subscriptions, grants from the local authority, or endowments.

Management.

6. Every school must be under the superintendence of a body of managers responsible to the Board. It must not be conducted for private profit or farmed out to the teacher; and no student may be refused admission on other than reasonable grounds. The managers must appoint a person to act as correspondent with the Board.

The courses of instruction and the school fees must be suitable to the circumstances of the locality, and be approved by the Board.

The Board will not in general recognise schools in which no fees are charged, but they will be prepared, in certain cases, to approve the remission of fees to individual students.

Application of Income.

A full account of the income and expenditure of all schools must be furnished annually to the Board.

Schools managed by a public company, in the articles of association of which provision is made that no dividend shall be paid exceeding 5 per cent. per annum, are not considered as conducted for private profit, provided they show that the capital is not nominal, but has absolutely been expended in buildings or maintenance.

Teachers, pupil-teachers, and holders of scholarships, exhibitions, and studentships, may be exempted from the payment of school fees.

Local Authorities as Managers.

7. The council of any county or county borough or its technical instruction committee may notify its willingness to be responsible, within its area, to the Board for instruction in schools aided by grants under these Regulations.¹

In such case managers of existing schools may continue to receive grants in respect of their present curriculum, but promoters of new schools, or managers wishing to change the character of their present curriculum, will in general be required, as a condition of grants, to act in unison with the council or its committee.

Premises and Equipment.

8. The premises must be sanitary, convenient for teaching purposes, adapted to the circumstances of the school, and provided with satisfactory equipment and appliances.

Qualifications of Teachers.

9. The teaching staff must be sufficient. The teachers must, as a rule, be paid fixed salaries. They must possess such qualifications as may be required by the Board,² and their employment at other times must not be such as will prevent the efficient discharge of their duties at the school.

Instruction.

10. Arrangements should be made, so far as practicable, to provide for a progressive course or courses of instruction for students attending in successive school years. Syllabuses of subjects in which the Board hold examinations, and specimen syllabuses of instruction in certain other subjects, are given in the supplementary regulations. Managers of schools who wish to adopt any other syllabus must submit it to the Board for their approval.

Duration of School Year.

11. The school year will, in general, be held to begin on the 1st August and to terminate on the following 31st July.

A school will not, as a rule, be placed upon the list of recognised schools except upon an application made to the Board (on the prescribed form) before 1st October in each year, but applications for the recognition of short courses in special subjects may be accepted at a later date, provided they are received not later than one month before the course begins.

Time-Table.

12. The time-table must be submitted to the inspector in duplicate at the beginning of the school year. The time-table must show the several subjects³ in which instruction is given, and the time allotted to each subject. At least one week's previous notice of any alteration in the time-table affecting the days or hours of meeting or of a holiday or temporary closure of the school must be given to the inspector. The managers must also give a clear fortnight's notice to the inspector of the date at which the school will close for the school year.

A deduction from the grant not exceeding £1 may be made if the inspector finds the school closed at a time when the time-table provides for instruction being given.

¹ See note to §7 of the Regulations for Secondary Day Schools, p. 687.

² See §1 of the Supplementary Regulations, p. 655.

³ The Board of Education state that as a rule every school must give instruction in at least two subjects.

Meetings.

13. The instruction in the school must begin after 4 P.M., or on Saturdays after 1 P.M.

In special circumstances instruction may be given at an earlier hour with the previous sanction of the Board.

No course in any subject will be recognised which provides for less than twenty hours of instruction.

No meeting of the school is reckoned at which less than one hour's instruction has been given in subjects sanctioned by the Board.

For the minimum length of lessons, see §20.

Record of Students and Attendance Registers.

14. Managers must keep a record of the students who join the school. They are responsible for the accuracy of the registration of the attendance of all students who receive instruction.¹

Persons excluded from Registration.

15. No student may be registered (1) who is under twelve years of age, or (2) whose name is on the register for day attendance at any school under government inspection.

Exception.—Students, whose only registration for day attendance is at a school of art or its branches, are exempted from the operation of this latter restriction. This exemption may, with the special sanction of the Board, be extended to students whose only registration for day attendance is at an efficient art class.

No student's attendance in any course may be counted unless he has received at least fourteen hours of instruction in that course.

Not more than 160 hours of instruction in a school may be counted for any student in one year.

Carrying forward of Students' Attendances and Class Meetings.

Where students of a school become eligible for registration too late to receive fourteen hours instruction in any subject before the end of the school year, the Board may allow the attendances of such students to be carried forward to the following school year, provided that no grant will be made in respect of a student who receives in all less than fourteen hours instruction in that subject.

Where it is necessary on educational grounds to hold some of the meetings of a class before, as well as after, the 31st July in any year, the Board may allow the meetings of such a class to be carried forward to the following school year, provided that no grant will be made in respect of any subject in which less than twenty hours of instruction in all has been given.

Visits of Inspectors.

16. The Inspectors of the Board will from time to time visit the schools and report on the sufficiency, condition, and suitability, of the premises and fittings; the sufficiency of the apparatus and equipment; the curriculum; the character and quality of the instruction; the sufficiency of the teaching staff for the number of students under instruction; the progress of the students, which they may test in such manner as may be necessary; the constitution and working of the managing body; and the manner in which the Board's regulations are carried out.

A meeting of the managers, for which sufficient notice will be given, must, if required, be held when the school is inspected.

Where the school is under the management of an authority acting under §7, the Inspector may convene a meeting of the local managers.

The Inspectors may require the production of the accounts and of any other necessary papers to enable them to verify the income and expenditure in respect of the school.

¹ For detailed rules as to registration of attendance, see §3 of the Supplementary Regulations, p. 656.

Examinations.

17. Examinations are held by the Board under conditions which are stated in the Supplementary Regulations.

Payments.

18. Payments are made on the attendance of students at instruction.¹ For rules governing the rate of the payments, see §20.

Certificates required from the Managers.

The payments are made when the prescribed conditions have been complied with. The managers must certify that these conditions have been fulfilled.

In case a school is compulsorily closed by order of a proper authority a special grant may be made.

Assessment of efficiency of class.

19. The rates payable under §20 will be determined by the Board upon (a) the Inspector's Report; (b) the past record of the school; and in certain cases (c) the success of the students at the examinations.

Subjects and grants.

20. Subject to the foregoing conditions the grant will be calculated by adding together the number of hours of instruction in a subject received by registered students, and each complete 20 hours will be paid for at the rates following:—

(I.) LITERARY AND COMMERCIAL.

Reading, Writing, and Arithmetic—either taken separately or in any combination.
Knowledge of Common Things, or Nature Knowledge.

Elementary Drawing.

English.

Latin.

Life and Duties of a Citizen.

Commercial Correspondence and Office Routine.

Book-keeping.

Shorthand.

Needlework.

Vocal Music.

*Geography and History—either taken separately or together.

*Economics.

*Mercantile Law and Practice.

*French.

*German.

*Any other Modern Language.

The rate of grants payable will, as a rule, be from 2s. 6d. to 3s. 6d.

In schools in which advanced instruction is efficiently given, by teachers recognised as qualified by the Board, in the subjects marked with an asterisk, and in which the syllabus followed is one of the specimen advanced syllabuses given in the Supplementary Regulations, or a corresponding syllabus specially approved for the purpose by the Board, grants up to 5s. may be awarded.

No lesson of less than one complete half-hour will be allowed to count as instruction in the above subjects.

(II.) ART.

The ordinary rate of grants will be from 2s. 6d. to 3s. 6d.

¹ In certain cases payments are made on the results of examination.

This rate may, however, be increased up to 15s. according to the efficiency of the instruction and equipment, the qualifications of the teachers, and the work submitted for the National Competition. (*See Supplementary Regulations.*)

The hours of a student's instruction between 60 and 160 will be paid upon at the ordinary rate.

No lesson of less than one hour will be allowed to count as instruction in Art.

(III.) MANUAL INSTRUCTION.

Wood-work.

Metal-work.

The rate of grants payable will, as a rule, be from 2s. 6d. to 3s. 6d.

When there is adequate equipment, in the case of wood-work the rate may be increased up to 4s., and in the case of metal-work up to 5s.

No lesson of less than one hour will be allowed to count as instruction in the above subjects.

(IV.) MATHEMATICS AND SCIENCE.¹

Any generalised or special branch of Science will be accepted, if a suitable syllabus is submitted.

Grouped Subjects.

Well-appointed schools may submit schemes and time-tables for grouping together cognate Science and Art subjects. This grouping will only be permitted where the students are actually in training for a trade or craft under some recognised Educational Authority, and when the subjects selected for grouping together are those necessary for the instruction in the principles underlying such trade or craft. The time to be given to instruction in each subject of the proposed group must be clearly indicated in the scheme submitted for approval. Where an Advanced Course is proposed, the instruction in it must, as a rule, be confined to a smaller number of subjects than that which is suitable for the Elementary Course.

The ordinary rate of grants payable will be from 2s. 6d. to 3s. 6d.

This rate may be increased for Elementary work up to 8s. 6d., and for Advanced work (including Honours, Part I. of the Syllabus on which examinations are held) up to 20s. according to the efficiency of the instruction and equipment, the experimental illustration of the teaching, and the qualifications of the teacher.

For systematic practical instruction given under the same conditions, and in lessons of not less than one hour and a half in an approved laboratory, grants up to 13s. and 25s. respectively may be awarded.

Successes in the Examinations in the Advanced Stage or in Honours Part I. will be taken into consideration in assessing the rate.

The hours of a student's instruction between 120 and 160 will be paid upon at the minimum rate.

The works submitted for the National Competition by the students in classes in Science subjects II., III., and IV., may be taken into account in assessing the rates of grant for attendances in such classes.

No lesson of less than 40 minutes will be allowed to count as instruction in the theory, or of less than 1½ hours in the practical work of the above subjects.

(V.) HOME OCCUPATIONS AND INDUSTRIES.

Domestic Economy.

Cookery.

Dressmaking and Cutting Out.

Laundry-work.

Dairy-work.

¹ For List of Subjects in which the Board hold examinations, see §3 of the Supplementary Regulations, p. 657.

Gardening.
Cottage Industries.
Ambulance.
Home Nursing.

The rate of grants payable will, as a rule, be from 2s. 6d. to 3s. 6d.

When practical work is satisfactorily carried out in subjects which involve exceptional expenditure for materials and appliances, grants up to 5s. 6d. may be made.

No lesson of less than one hour will be allowed to count as instruction in the above subjects.

NOTE.—Subjects other than those given in the different divisions may be approved should the Board consider them to be of educational value and suited to the needs of the locality.

Scale of Payments on Results.

21. The following payments are made on the results of examination of students who have received during the school year at least twenty registered lessons of an hour's duration in a theoretical subject or of an hour and a half's duration in a practical subject.

Science.

(a) For Honours, Part II. of the Syllabus on which examinations are held, where the subject is divided into parts, and where the qualifying examination in Part I. has been passed, for a first or second class £6 and £3 respectively. For Honours where the subject is not divided into parts the payment for a success will be £6.

(b) Payments on account of a student's success in any subject will be reduced by the amount previously paid for success in that subject.

(c) No payment on results is made in Honours unless the student has already been registered for at least one school year in the subject in a science school in connection with the Board.

Art.

(a) £3, £2, and £1 for an excellent, first class, or second class respectively in drawing and modelling from the life and architectural design.

(b) £6 and £3 for a first or second class respectively in Honours.

(c) If the student, on account of whom payment under (a) and (b) is claimed, has been previously successful in the same subject, or in a corresponding subject, the payment on his account will be reduced by the payment which would be claimable on such previous success; but when such previous success has been obtained in a school or class under the same managers, and has not been paid upon, the Board may allow the full claim. Payments for not more than three successes, whether in Honours or in drawing from life or modelling from life or architectural design, will be allowed for the same student in the same year.

Rewards to Students.

22. Rewards to students consist of certificates, prizes, medals, and scholarships and exhibitions, awarded on conditions stated in the Supplementary Regulations.

BOARD OF EDUCATION

SUPPLEMENTARY REGULATIONS for Secondary Day Schools and for Evening Schools.

See Prefatory Note, p. 636.

QUALIFICATIONS OF TEACHERS.

1. The qualifications of teachers (in subjects other than art) will not, as a rule, be investigated by the Board in the following cases :—

(a) In a school controlled by a local authority under the Technical Instruction Acts.

(b) In a school (not being a public elementary school within the meaning of the Elementary Education Act, 1870) governed by a scheme under the Charitable Trusts Acts, where the governing body includes representatives of a local authority, or under the Endowed Schools Acts, the governors of which act in their corporate capacity as managers.

(c) In certain other recognised public institutions.

Teachers placed on Column B of the official register of teachers (*see* Order in Council of the 6th March 1902)¹ will be accepted by the Board for those subjects covered by the degree, or other test of attainments which was required for their entry on such column.

Teachers placed on any supplemental register for any subject annexed to the register of teachers, will be accepted by the Board as qualified to teach the subject.

A first class in the advanced stage or a success in Honours at the Board's examination in any subject of science, is recognised as a qualification to teach the subject.²

For subjects under Division I. of §20 of the regulations for evening schools, no special qualification will be required for the present school year. The higher grant will not, however, be given for any subject marked with an asterisk unless the Board are satisfied, in each case, that the teacher is specially competent to teach the subject.

The teachers' certificate issued by the City and Guilds of London Institute in manual training, the evening school teachers' certificate and teachers' diploma in certain subjects of domestic economy, and also the first class full certificate in any technological subject, will be recognised as affording evidence of such special competence to teach the subject or subjects covered by the certificates.

Persons recognised by the Board, under previous regulations, as qualified to teach a subject will continue to be so recognised.

The qualifications usually recognised by the Board to cover instruction in art are of three grades, viz :—

(1.) The elementary drawing certificate.

This qualification is recognised by the Board to cover instruction in elementary drawing under Division I. §20 of the regulations for evening schools.

(2.) The art class teacher's certificate.

This qualification is recognised to cover art instruction in Division II. of the same section.

¹ See p. 668.

² The Board of Education state that special qualifications are applicable to certain science subjects.

(3.) The art master's certificate.

This qualification is required for the head-mastership of a school of art under §38 of the regulations for secondary day schools.

These certificates are issued to candidates who fulfil the conditions and apply to the Board for them.

Specially qualified persons may be exceptionally recognised.

REGISTRATION.

General Conditions.

2. The conditions as to registration are as follows :—

1. No student whose name is on the register for attendance at an elementary school under government inspection may be registered in any school or class under the regulations for evening schools or those for secondary day schools ; and no student whose name is on the register of any evening school under the Board is eligible for day registration in any school under the Board.

Exception.—Students, whose only registration for day attendance is at a school of art or its branches, are exempted from the operation of this latter restriction. This exemption may, with the special sanction of the Board, be extended to students whose only registration for day attendance is at an efficient art class.

2. Managers are responsible for the accuracy of all registration. They may, with the sanction of the Board, adopt any system for this purpose which they may consider convenient, and sufficient to enable them to certify to the correctness of the attendances on which a claim for payment is based, provided that the system does not lend itself to abuse, and has the recommendation of the inspector. The managers must arrange that the system of registration adopted does not curtail the time given to instruction. The absence of a register will be a bar to the payment of a claim.

3. The Board may require any register to be forwarded to them. Managers before parting with a register should extract such information as they may need.

4. When the Board are satisfied that, by reason of a notice of the sanitary authority of the district in which a school or class is situated, or any two members thereof acting on the advice of the medical officer of health, requiring the managers for a specified time, with the view to preventing the spread of disease, or any danger to health likely to arise from the condition of the school, either to close the school or to exclude any students from attendance, or by reason of any provision of an Act of Parliament, or by reason of the exclusion under medical advice of children from infected houses, the attendance has been seriously diminished, and that consequently a loss of grant would, but for this paragraph, be incurred, the Board have power to make a special grant to the managers in respect of students excluded from attendance by the closing of the school or otherwise as above, such grant not to exceed that which would be payable on the average registered attendance of the school.

Entrance Register.

5. Managers are required to keep an entrance register, which must show for each student the full name, age (years and months), occupation, address, and date of joining the school. A record of the fees paid by each student must also be kept in such a form as may be approved by the inspector.

Attendance Register.

6. A model form of register for recording attendances of students will be sent on application to the Board, but the managers, except in the case of schools mentioned in condition 14 of this section, must themselves provide the necessary registers for actual use.

The name of the school, the subject of instruction, the name of the teacher, the day, hour, and duration of the lesson, must appear on the face of each attendance

register. There should also be a space on which the managers may, by their dated signatures, record the visits paid by them to the classes, and the number of students then actually present.

7. The registration of the attendances made in each school year must be kept distinct.

8. The attendance of a student must be registered before the lesson commences, unless the mode of registration stated in the exception in condition 10 is adopted. No lesson may be registered which is less than one complete half-hour in duration in Division I. of §20 of the regulations for evening schools; of less than one hour in Divisions II., III., and V.; and of less than forty minutes for a lesson in theory, and ninety minutes for a lesson in practical work in Division IV.

9. The attendance in each subject, and in each stage or section of such subject, must be entered in a separate register. In schools of art and in other classes under Division II., the separate registration of each subject is only necessary when a claim for payment on the results of examination in such subject is to be made.

10. The presence of each student at a lesson must be definitely marked in the column devoted to that lesson by a stroke /, and his absence by a circle O. Immediately the attendance has been marked for any meeting the total number of students present at that meeting must be entered at the foot of the proper column in the register. The registration of students who leave before the completion of a lesson must be cancelled by drawing a circle round the attendance mark /, thus Ø.

Exception.—In schools of art under §40 of the regulations for secondary day schools, and in classes under Division II. of the regulations for evening schools, the attendances of students must be recorded by entering against the names, in the column devoted to the meeting of the class, the time in hours and half-hours that each student was actually present under instruction. With the special sanction of the inspector in certain classes under Division IV. of the last-named regulations, the attendances of students may be similarly recorded.

11. At the end of each course the following totals must be entered—the number of hours attended by each student, the total number of students who make the minimum number of attendances, and the total number of hours made by all these students.

12. Visits of students to galleries, museums, or other institutions, or places connected with their work, or their attendance for field work, may be recorded in the attendance register, and counted as attendances for grants, if the students are accompanied by the recognised teacher of the class, and all the arrangements are previously submitted to, and approved by the inspector. At least a week's notice of the intended visit must be given.

13. All the entries must be made in ink. Blanks and erasures are not permitted. If any error in the registration is made, it should be corrected by striking through the original entry, so that both the original and the corrected entry appear in the register.

14. Special attendance registers will, for the present, be supplied for the use of secondary day schools (Divisions A and B) under the Board, and must be kept in accordance with the regulations printed on them. Schools of art recognised under §39 of the regulations for secondary day schools may adopt such form for registering attendances as is found convenient for accuracy and clearness.

EXAMINATIONS.

3. The subjects in which examinations are held by the Board are :—

Subject.	SCIENCE.	ART.
I.	Practical Plane and Solid Geometry.	Freehand Drawing in Outline.
II.	Machine Construction and Drawing.	Model Drawing.
III.	Building Construction.	Drawing in Light and Shade from a Cast.
IV.	Naval Architecture.	

Subject.	SCIENCE.	ART.
VII.	Applied Mechanics.	Drawing on the Blackboard.
XXII.	Steam.	
Vp.	Practical Mathematics.	Geometrical Drawing (Art).
V.	Mathematics.	Perspective.
VIa.	Theoretical Mechanics (Solids).	
VIb.	Theoretical Mechanics (Fluids).	Memory Drawing of Plant Form.
XX.	Navigation.	Anatomy.
XXI.	Spherical and Nautical Astro- nomy.	Drawing from the Antique.
VIII.	Sound, Light, and Heat.	Drawing the Antique from Memory.
VIIIa.	Sound.	
VIIIb.	Light.	Drawing from Life.
VIIIc.	Heat.	
IX.	Magnetism and Electricity.	Painting from Still Life.
XXIII.	Physiography (§1 Elementary Stage).	Painting Ornament.
X.	Inorganic Chemistry.	Historic Ornament.
Xp.	Inorganic Chemistry (Practical).	
XI.	Organic Chemistry.	Principles of Ornament.
XIp.	Organic Chemistry (Practical).	
XIX.	Metallurgy.	Design.
XIXp.	Metallurgy (Practical).	Architecture.
XII.	Geology.	Architectural Design.
XIII.	Mineralogy.	
XVIII.	Principles of Mining.	Modelling from the Antique.
XXIII.	Physiography.	
XIV.	Human Physiology.	Modelling the Head from Life.
XV.	General Biology.	
XVI.	Zoology.	Modelling from Life.
XVII.	Botany.	
XXV.	Hygiene.	Modelling Design.
XXIV.	Agricultural Science and Rural Economy.	

The results of the examinations in Technology held by the City and Guilds of London Institute, in subjects which form part of a grouped course in Technology, approved by the Board, will be accepted as indicating the extent of the efficiency of that part of the instruction for which payments are not made by the Board of Education, and will be taken into account in assessing the rate of grant.

SECONDARY SCHOOLS.

RULES FOR NEW BUILDINGS AND EQUIPMENT.

BOARD OF EDUCATION.

PLANS, SPECIFICATION AND ESTIMATE.

The following requirements must be fully complied with before any plans can be passed. Omission of any item will cause unnecessary delay and trouble.

Duplicate copies of the block plan and of the plans of the principal floors must be sent for retention by the Board.

1.—PLANS.

All plans must be on cloth. The scale must be drawn on all drawings as well as expressed in words, and all plans must show the north point.

- (a) A block plan of the site, to be drawn to a scale of 16 feet to an inch, having the points of the compass marked upon it and the levels of the ground, and showing the position of the building, with boundaries, approaches and abutments, and the course, size, and direction of all rain-water, sink, bath, water-closet and other drains, the situation of all manholes and ventilating pipes, and the connection of the drains with the sewer or outlet.

The following plans, elevations, and sections must be drawn to a scale of $\frac{1}{4}$ inch to a foot. $\frac{1}{4}$ -inch scale drawings will be required of intricate roof or other construction.

- (b) A plan of each floor, including basement and attics (if any).
- (c) A plan of the roofs.
- (d) An elevation of each front.
- (e) Sections through each portion of the building showing the construction of roofs, floors, etc.
- (f) In the case of additions to existing schools, plans of each floor of the old buildings including lavatories, latrines, etc., together with elevations and sections of the portions affected by the additions; the old buildings being coloured on the plans differently from the new.

The sizes of all rooms, both new and old, with the number to be accommodated in each, the footings to the foundations, the thickness of walls, the construction, and the scantlings of all timbers of floors and roofs must be accurately shown and figured; and the fittings, including desks, tables, basins, cupboards, laboratory sinks, benches, and the like, with the methods of heating and ventilation must be clearly shown and described.

2.—DESCRIPTION.

A concise description of the buildings, and of the various rooms with their dimensions and uses. The total number of boys or girls for whom accommodation is proposed to be provided must be stated.

3.—SPECIFICATION.

The specification must contain full details, and have marginal references opposite the description of each important part of the building in the several branches of trade. It must be written on foolscap paper, and any corrections to meet the Board's requirements must be written in red ink.

4.—ESTIMATE.

An estimate of cost, including all matters mentioned in the specification, with the architect's and quantity surveyor's remunerations appended as separate items, must accompany the plans and specification. The cubical contents of the building measured from the bottom of the footings to half-way up the roof, and including chimney-stacks, turrets and other features, must accompany the estimate.

NOTE.

The architect to the Governing Body will be required to certify to the due completion of the works in accordance with the Board's requirements.

BUILDING RULES.

All minimum dimensions and areas given are irreducible.

I.—DESIGN.

1.—ACCOMMODATION.

The following is the *minimum* accommodation that must be provided in plans for new buildings:—

Assembly Hall	8 square feet for every scholar.
Lecture Rooms	14 " " " " "
Class Rooms	18 " " " " "
Laboratories, Art Rooms and Cookery Class Rooms	30 " " " " "
Workshops	40 " " " " "
Dining Halls	10 " " " " "
Dormitories	65 " " and 800 cubic feet for every scholar.

Sick Rooms 1000 cubic feet for every bed.

Lavatory basins in Day Schools, 1 for every 10 scholars.

W.Ca. :—

In Day Schools :—

For Girls, 1 for every 15 girls.

For Boys, 1 " " 25 boys and 1 urinal for every 15 boys.

In Boarding Schools :—4 for every 30 boarders for day use.

1 " 12 " for night use.

Baths in Boarding Schools, 2 for every 25 scholars.

A good plan for baths is a room with a floor of asphalt, lead or other impervious material, with taps and movable baths, or shower-baths.

2.—GENERAL PLAN.

The best general plan is that of a central hall, round which the other rooms are arranged and from which they are entered by doors, the upper portions of which are glazed. If an upper story is needed the staircases and corridors should be in full view of the central hall. Passages and corridors should be avoided as far as possible. Where unavoidable, they must be large, airy, and well lit.

3.—ENTRANCES.

Entrances must not be direct into a central hall or other room; and must not be used as cloak-rooms. For external doors having outside steps there should be a landing between door and steps.

In mixed and dual schools there must be a separate entrance for boys and girls.

4.—STAIRCASES.

Staircases must be not less than 4 feet wide, and must not have more than 12 steps to a flight. Where possible they should be constructed with solid walls on both sides. They must be of fire-resisting materials, and well lighted in every part. In schools of more than 150 scholars, with upstairs rooms, there must be at least two staircases.

Treads must not be less than 10 inches wide and risers not more than 6 inches high; winders should be avoided.

5.—CLOAK-ROOMS AND LAVATORIES.

In every school there must be cloak-rooms, lavatories and changing-rooms. They must not be passages. They should be entered from properly lighted and ventilated lobbies, and must not be entered from any room used for teaching. They must be heated and ventilated so as to dry wet things and prevent any smells or damp from entering the school. Lavatory fittings should not be placed in cloak-rooms.

Cloak-rooms must be well lighted from the end. Gangways at least 4 feet wide should be made between the hanging-rails. Pegs for hats and cloaks should be numbered, placed not less than 12 inches apart, and not placed one above another. In lavatories slate troughs with loose not fixed basins are recommended. The floors should be of asphalt or other impervious material, and the walls of glazed brick or tile, or with at least a dado of 5 feet high of such materials. Glass partitions should be used as far as possible. Changing-rooms should be provided with fixed seats, pegs, lockers and boot-racks.

6.—ASSEMBLY HALL.

The central or assembly hall should not be used as a class-room, except for drawing. It must never be used for more than one class at once.

7.—CLASS-ROOMS AND LECTURE-ROOM.

In every school there must be class-rooms at the rate of one for every 25 scholars. No class-room should contain more than 30 scholars. All class-rooms must be furnished with single desks, with adequate gangways, so arranged that the teacher can pass between or behind each row. A lecture-room may be large enough to hold more than one class, and should be constructed as far as possible on the principle of a theatre, with rising seats. Class-rooms should not have rising seats.

The principal light must be to the left hand of the scholars. Windows must never be placed so as to front scholars or teachers.

8.—LABORATORIES AND SCIENCE LECTURE-ROOM.

In every school there must be a science lecture-room, or a class-room fitted for experimental demonstration, and one or more laboratories. A laboratory should accommodate not more than 25 scholars at a time at practical work, but in large schools of more than 200 may accommodate more, if arrangements are made for supervision by more than one teacher at a time.

Laboratories should be thoroughly well lighted and properly fitted with benches for their special purpose, and supplied with water, gas, and, where possible, electric current. In a chemical laboratory there must be special provision, by way of fume closets, a hood over a bench, or otherwise, for experimental work involving noxious fumes. A physical laboratory should be free from vibration, and for that purpose placed on the ground-floor, where possible, and should be capable of being darkened. If there is no balance-room a separate place in the laboratory should be assigned for balances. If on an upper story, the floor should be free from vibration and impervious to sound.

9.—DRAWING AND ART ROOMS.

In every school there should be a room or rooms properly constructed and fitted for the study of drawing and art. If the school is of more than one story these rooms must be at the top.

The following dimensions will afford suitable provision for 25 scholars :—

- (a) One room for elementary drawing 25 feet by 30 feet. It may be lighted by skylights as well as side windows.
- (b) One room for advanced drawing and art not less than 25 feet by 30 feet. This room should be lighted from the north side by a single large window square at the top, to give as much light as possible. The window may be carried up in a dormer if necessary, and its top should be at a height from the floor equal to three-quarters the depth of the room.

The following equipment and apparatus should be provided :—

- (a) A sufficient number of single desks, with wire or other receptacles for holding pots or glasses of water, and movable appliances for the support of drawing copies.
- (b) A suitable boarded surface fitted round the walls at a convenient height for blackboard practice.
- (c) A rack with numbered compartments for drawing boards.
- (d) Stands for displaying casts and drawing models or objects.
- (e) A cupboard for storing examples and exercises.
- (f) A movable blackboard and a whiteboard with all requisites for demonstrations by teachers.
- (g) Some frames, glazed and with movable backs, for displaying examples of good art work.

10.—COOKERY CLASS-ROOMS.

In cookery class-rooms, it is convenient to have two ranges, one open and the other closed, arranged on a slight cant across the angles at one end of the room, with a dresser between them. When gas is available a gas stove should be fixed in a convenient position against the side wall, if possible in a line with the table to be used for demonstration purposes. A deep sink should be placed in a recess at one side of the room, the scullery thus forming part of the room itself. If floor space permits raised benches should be placed at the end of the room opposite the ranges and dresser.

Kitchen tables should be provided, allowing 2 feet 6 inches square for the use of each scholar in classes of practical work.

11.—WORKSHOPS.

In every school there should be, and in every boarding school with more than 20 boarders there must be, a workshop and a manual training room, well lighted and ventilated. The workshop should provide for not more than 20 scholars under instruction at one time. There should be not less than 4 feet run of bench and a space of at least 2 feet in width in front of each bench for every scholar.

Provision for blackboard teaching should be made.

12.—MUSIC ROOMS.

In every school there should be a music class-room, and attached to it practice-rooms about 8 feet by 6 feet 6 inches divided by sound-proof partitions, and with sound-proof doors. These should be as much isolated as practicable.

13.—DINING HALLS.

In every school there should be proper dining-halls for day scholars as well as for boarders, if any, and careful estimates should be made of the number of day scholars who may be expected to dine. Not less than 2 feet should be allowed for each scholar at the table. The kitchen and necessary offices should be adjacent to the dining-hall, with separate entrance.

14.—COMMON ROOMS.

In every school there must be a common room for masters or mistresses, and in every boarding school, for the use of boarders out of school hours.

15.—LIBRARY.

In every school there should be, and in every boarding school of more than 20 boarders there must be, a library.

16.—DORMITORIES.

There must be a space of not less than 3 feet between beds. If the cubical system is adopted, there must be a window to each cubicle. Masters' or matrons' rooms should be placed so as to ensure some supervision over the dormitories.

17.—SICK ROOMS AND INFIRMARIES.

In every boarding school there must be a sick-room, properly isolated, with separate lavatory and latrine. In a sick-room the beds must be free of the walls. There should be not less than 6 feet space between beds, and, if possible, a window between every two beds, the windows being opposite each other. All internal angles of walls, floors and ceilings should be rounded.

Waterclosets and bathroom, with hospital bath, should be provided, with airtight disconnection from the sick-rooms. In boarding schools of more than 50 boarders, provision for infectious cases should be made in a separate building as far from the main building as conveniently practicable.

18.—HEADMASTER'S HOUSE.

The headmaster's house, if any, should be planned as a gentleman's residence, with accommodation for a family, and, especially in the case of a boarding school, for the entertainment of visitors. For the headmistress in a girls' school proper apartments with reception-rooms should be provided.

19.—BOARDING HOUSES.

In every school for more than 80 boarders, there should be separate houses with accommodation for not more than 60 in each house, under the charge of a Master.

20.—GYMNASIUM, PLAYGROUND, AND PLAY-FIELDS.

In every school there should be a gymnasium and a playground proportioned to the size and needs of the school. The playground should be properly levelled, drained and inclosed. There should be a covered shed for games for wet days. Buttresses, corners and recesses should be avoided.

There should also be, where practicable, play-fields for cricket and football, or, in the case of girls' schools, for hockey and lawn tennis.

In suitable cases, a shed for bicycles should be provided.

II.—CONSTRUCTION.

N.B.—The cost of periodical repairs should always be borne in mind. Wood that requires frequent painting should only be used sparingly on the exterior, and in the interior glazed linings soon repay their extra first cost in the saving of renewals.

21.—PREPARATION OF SITE.

All vegetable soil must be removed and a layer six inches thick of concrete, or broken bricks, stone or gravel, mixed with pitch and gas-tar boiled to a proper consistency, spread over the whole surface of the ground to be occupied by the buildings.

22.—FOUNDATIONS.

Adequate rock, stone or concrete, foundations must be provided under all new walls. They must be not less than a foot thick nor project less than six inches beyond the lowest course of footings on either side.

23.—WALLS.

All walls, including fence-walls, must have a damp-proof course of asphalt, slate, or other approved material through their whole thickness immediately above the ground, and all chimney stacks must have a similar course immediately above the roof.

All chimney stacks must be built in cement.

External walls are better built hollow. If of brick, there must be two 9-inch walls with a 2-inch space, except walls of a building on ground floor only, which may be 9-inch and 4½-inch walls with a 2-inch space. If of stone, they must be in 12-inch stone and 9-inch brick lining with a 2-inch space, except walls of a building on ground floor only, when the brick lining may be 4½-inch. These minimum dimensions are liable to be increased according to the height of the building.

Hollow walls should be bonded together with continuous courses of vitrified bonding bricks, one course to every 3 feet in height.

Iron ties must not be used. Lead trays must be placed over all openings in hollow walls.

The height of every room used for teaching should not be less than 12 feet from the level of the floor to the ceiling. For assembly-halls, dining-halls, gymnasiums and other large rooms, greater height should be given.

An air space should be left round all timbers where they enter the walls, and they should rest on stone templates.

Where local stone is rough or porous, rough cast may be used, but cement to imitate stone must not be used.

24.—ROOFS.

Roofs should not, if it can be avoided, be open to the apex. If, as in the case of assembly-halls, they are so made, special precautions must be taken to render them impervious, and to provide apex ventilation.

Where a roof forms part of a room covering, a non-conducting air space should be introduced between the weather covering and the ceiling, and the backs of the rafters must be close-boarded.

Rafters and joists must not be more than 13 inches apart in the clear.

Spruce timber must not be used. All external woodwork must be of oak or best Baltic red fir.

Slates should be secured by strong copper nails, weighing not less than 10 lbs. per thousand, two to each slate. Tiles should be secured by similar nails or by oak-pins, two to each tile. Ridge tiles should be bedded and jointed in cement.

25.—FLOORS.

Solid floors should be used on the ground floor. If joists and boarded floors are used, air-bricks or air-gratings must be inserted to ensure a through current of air.

26.—WINDOWS.

The area of window-glass must not be less than $\frac{1}{10}$ th the area of the floor space in rooms used for teaching, and in other rooms not less than $\frac{1}{12}$ th. At least half the glass area of every window must be made to open for ventilation and for cleaning. In rooms used for teaching windows should have square heads, be as near the ceilings as possible, and be of white glass only. The height from floor to glass line should be from 4 feet to 4 feet 6 inches. Provision for cross-ventilation should be made in each case.

A convenient arrangement of windows is to have the lower portion fitted as double hung sashes and the upper as a fanlight hung at the bottom to fall inwards.

27.—DOORS.

All external doors must open outwards as well as inwards. All doors to rooms used for teaching should be glazed in the upper part.

III.—VENTILATION AND WARMING.

28.—VENTILATION.

In each room there must be, independently of doors and windows, inlets for fresh air and outlets for foul air, communicating with the outer air.

Inlets should be placed as far as may be from doors and fireplaces. They must not consist of gratings in floors.

Outlets for the extraction of foul air should be placed in such positions as are required by the system adopted.

Special attention must be paid to ventilation in chemical laboratories.

29.—WARMING.

Warming may be done either by open fire-grates (if possible arranged to admit fresh warm air), by hot-water pipes (in which case the principle of direct radiation is recommended), or by hot air. An even temperature of from 54° to 60° should be maintained.

IV.—SANITARY ARRANGEMENTS.

30.—CLOSETS.

In day schools there should be no closets in the main school building, except for women teachers and girls. All others should be completely disconnected from the school at a short distance.

In mixed or dual schools the offices and approaches to them must be wholly separate for the two sexes.

In boarding schools there should be closets near the dormitories but separated from them by cross-ventilated lobbies.

Each closet must be not less in the clear than 2 feet 3 inches wide nor more than 3 feet, fully lighted and cross-ventilated. They are best divided by partitions carried up 6 feet only. Doors, if any, should be separated from the threshold by at least 4 inches, and from the head by at least 6 inches.

If a cesspool system is unavoidable, the cesspool must be as far as possible removed from the playground, be fenced in, properly ventilated, and water-tight.

31.—DRAINS.

The arrangement of drains should be in accordance with the best approved modern practice, subject to the regulations of the Local Sanitary Authority, or, if none, subject to those of the nearest Urban Sanitary District Authority.

THE CONSULTATIVE COMMITTEE.

THE BOARD OF EDUCATION (CONSULTATIVE COMMITTEE) ORDER IN COUNCIL, 1900.

At the Court at Osborne House, Isle of Wight,
7th day of August 1900.

PRESENT:

The Queen's Most Excellent Majesty in Council.

WHEREAS by section four of the Board of Education Act, 1899, it is enacted that it shall be lawful for Her Majesty in Council by order to establish a consultative committee, consisting, as to not less than two-thirds, of persons qualified to represent the views of universities and other bodies interested in education, for the purposes in that section mentioned:

Now, therefore, Her Majesty, by and with the advice of Her Privy Council, and by virtue of the authority committed to Her by the Board of Education Act, 1899, and of all other powers enabling Her in that behalf, is pleased to order, and it is hereby ordered, as follows:—

1.—(1.) There shall be established a consultative committee of the Board of Education consisting of eighteen members.

(2.) The following persons shall be the first members of the Committee¹:—

Rt. Hon. Arthur Herbert Dyke Acland.
Sir William Reynell Anson, Bart., M.P.
Professor Henry Armstrong.
Mrs. Sophie Bryant.
Rt. Hon. Sir William Hart Dyke, Bart., M.P.
Sir Michael Foster, K.C.B., M.P.
Mr. James Gow, Litt.D.
Mr. Ernest Gray, M.P.
Mr. Henry Hobhouse, M.P.
Mr. Arthur Charles Humphreys-Owen, M.P.
Sir Richard Claverhouse Jebb, M.P.
Hon. and Rev. Edward Lyttelton.
Very Rev. Edward Craig Maclure, D.D., Dean of Manchester.
Miss Lydia Manley.
The Venerable Ernest Grey Sandford, Archdeacon of Exeter.
Mrs. Eleanor Mildred Sidgwick.
Professor Bertram Coghill Alan Windle, M.D.
Rev. David James Waller, D.D.

2.—(1.) Subject to the provisions of this Order as to the retirement of the first members of the committee, the term of office of a member of the committee shall be six years.

(2.) On the first day of October in every second year six members of the committee shall go out of office and their places shall be filled by such persons as the President of the Board of Education appoints.

(3.) A person going out of office may be reappointed.

3.—(1.) The committee shall elect a chairman, who shall hold office until the next day for the retirement of members of the committee, but, if he continues to be, or is reappointed, a member of the committee, he may be re-elected chairman.

Provided that if during his term of office the chairman ceases to be a member of the committee, the committee shall elect a new chairman.

¹ Six of the persons named above retired, under §10 of this Order, on the 1st October 1902, and they were re-appointed as members by the President of the Board of Education under §2 of the Order.

Sir W. Anson resigned his membership in 1902, and Mr. Thomas Herbert Warren, President of Magdalen College, Oxford, was appointed in his place.

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(2.) The chairman shall preside at every meeting of the committee at which he is present.

4. Such person as the President of the Board of Education appoints shall be the secretary to the committee and shall hold office during the pleasure of the President of that Board.

5.—(1.) The committee shall meet at such times, and notice of meetings shall be given to the members of the committee in such manner, as the President of the Board of Education appoints.

(2.) At a meeting of the committee, six shall be a quorum.

(3.) Subject to the provisions of this order the committee may regulate their own procedure.

(4.) No act or proceeding of the committee shall be questioned on account of any vacancy in their body.

6. The President of the Board of Education may for special purposes appoint sub-committees of the committee, and any sub-committee so appointed may, within the limits authorised by the President, add to their number persons not being members of the committee.

7. If a member of the committee is absent from two consecutive meetings of the committee, except for some reason approved by the President of the Board of Education, his office shall become vacant.

8. On a casual vacancy occurring in the committee by reason of the death, resignation, or absence of a member, the President of the Board of Education shall appoint another person in his place, and the person so appointed shall hold office until the time when the person in whose place he is appointed would regularly have gone out of office, and shall then go out of office.

9. In making appointments under this Order the President of the Board of Education shall have regard to the requirements of the Board of Education Act, 1899, that the committee shall consist, as to not less than two-thirds, of persons qualified to represent the views of universities and other bodies interested in education.

10. The President of the Board of Education may fix the times of retirement of the members of the committee appointed by this Order so that six of them shall retire on the first day of October one thousand nine hundred and two, six on the first day of October one thousand nine hundred and four, and six on the first day of October one thousand nine hundred and six.

11. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

12. This Order may be cited as the Board of Education (Consultative Committee Order in Council, 1900, and shall come into operation on the first day of October one thousand nine hundred.

A. W. FITZROY.

NOTE.

Section 4 of the Board of Education Act, 1899, provided for the establishment of a consultative committee for the purpose of :—

- (a) framing, with the approval of the Board of Education, regulations for a register of teachers, which shall be formed and kept in manner to be provided by Order in Council: Provided that the register so formed shall contain the names of the registered teachers arranged in alphabetical order, with an entry in respect to each teacher showing the date of his registration, and giving a brief record of his qualifications and experience, and
- (b) advising the Board of Education on any matter referred to the committee by the Board.

For the regulations for a register of teachers, framed by the consultative committee in accordance with clause (a), see the Order in Council of the 6th March 1902, p. 667.

Section 3 of the Board of Education Act specifically mentions the recognition by the Board of any University or other organisation as an agency for the purpose of the inspection of any secondary school under that section, as one of the matters on which the Board are to be advised by the consultative committee. For the organisations which have been so recognised up to the present time, see note 2 to §3 of the Board of Education Act, 1899, p. 393.

TEACHERS' REGISTRATION.

ORDER IN COUNCIL PROVIDING FOR THE FORMATION AND KEEPING OF A REGISTER OF TEACHERS.

At the Court at St. James's, the 6th day of March 1902.

PRESENT :

The King's Most Excellent Majesty in Council.

WHEREAS by virtue of section four of the Board of Education Act, 1899, it is lawful by Order in Council to establish a Consultative Committee¹ for the purpose of framing, with the approval of the Board of Education, regulations for a register of teachers, which is to be formed and kept in manner to be provided by Order in Council :

And whereas a Consultative Committee has been established by Order in Council ; and the Committee so established have, with the approval of the Board of Education, framed the regulations for a register of teachers set forth in the Schedule to this Order.

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to Him by the Board of Education Act, 1899, and of all other powers enabling Him in that behalf, is pleased to order, and it is hereby ordered, as follows :—

1. For the purpose of forming and keeping such register of teachers, there shall be established a registration authority, called the Teachers' Registration Council,² and in this Order referred to as the council, which shall consist provisionally of twelve members, of whom six shall be appointed by the President of the Board of Education, and of the remaining six one member shall be appointed by each of the following bodies :—

The Conference of Headmasters.
The Incorporated Association of Headmasters.
The Association of Headmistresses.
The College of Preceptors.
The Teachers' Guild of Great Britain and Ireland.
The National Union of Teachers.

2. The members so appointed shall hold office for three years from the date of this Order.

3. On a casual vacancy occurring in the council during the said period of three years, the authority by whom the member whose seat is vacated was appointed shall appoint another member in his place.

4. The first appointments of members of the council shall be made not later than the first day of April one thousand nine hundred and two, and each appointing authority shall as soon as may be after making the appointment communicate to the Board of Education the name and address of the person appointed by them.

5. The first meeting of the council shall be convened by the Board of Education, and that Board may take such steps as they think necessary for the purpose.

¹ For the Consultative Committee, see the Board of Education (Consultative Committee) Order in Council, 1900, p. 665.

² The Teachers' Registration Council, established by this Order, is not a branch of the Board of Education, but some of its powers can only be exercised subject to the approval of that Board. The offices of the Council are at 49 and 50 Parliament Street, London, S.W.

6. After the expiration of three years from the date of this Order, the constitution of the council shall be such as may hereafter be provided by Order in Council.

7. If any member of the council is adjudged bankrupt or makes a composition or arrangement with his creditors, or is absent from meetings of the council for more than twelve months consecutively, except in case of illness or, for some reason approved by the council, his office shall become vacant.

8. The council may appoint committees and delegate, with or without conditions or restrictions, any of their powers and duties to any committee so appointed, and may regulate the procedure and conduct of business of the council and of any committee so appointed.

9. No act or proceeding of the council or of a committee of the council shall be questioned on account of any vacancy in their body.

10. The council shall establish and keep a register of teachers in accordance with the regulations contained in the Schedule to this Order, as framed by the Consultative Committee and approved by the Board of Education, and with such other regulations as may from time to time be framed and approved in like manner.

11. Subject to the approval of the Board of Education, the council may provide an office and appoint a registrar, and appoint or employ such other officers and persons as may be required for the execution of their duties, and may assign to any person so appointed or employed such remuneration as may be approved by the Board.

12. All fees payable in respect of registration and matters incidental thereto, as fixed by or under the said regulations, shall be carried to a registration fund, and the expenses of the council shall be paid out of such fund.

13. There may be paid to the members of the council out of the registration fund such fees for attendance at meetings and such allowance for travelling expenses as may be approved by the Board of Education.

14. The accounts of the council shall be audited and published by or under the direction of the Board of Education.

15. The council shall make a report of their proceedings once a year to the Board of Education.

A. W. FITZROY.

THE SCHEDULE.

REGULATIONS FOR THE FORMATION OF A REGISTER OF TEACHERS.

1. As soon as may be after the establishment of the registration authority there shall be established a register of teachers (hereinafter called 'the register') in which the name of every registered teacher shall be set forth in alphabetical order.

In addition to this alphabetical list there shall be two columns distinguished as Column A and Column B.

Column A shall contain the names of all persons for the time being recognised by the Board as certificated teachers under the Code of regulations for elementary day schools.¹

Column B shall contain the names of all persons who fulfil the conditions of registration hereinafter set forth.²

There shall also be recorded in the register in respect of each teacher, when registered

¹ See Article 60 of the Day School Code, *ante*.

² It is now the practice of the Board of Education to insert in amending schemes for endowed secondary schools a provision to the effect that the head teacher's name shall be on Column B of the register.

therein, his postal address, the date of his registration, and a brief statement of his qualifications and teaching experience, in the following form :—

Alphabetical List.	Column A.	Column B.	Address.	Date of Registration.	Qualifications.	Experience.

Additional qualifications and experience may be added from time to time, when verified by the registration authority.

2. A person shall be entitled to be placed on Column B of the register of teachers if he satisfies the registration authority that he fulfils the conditions set forth in regulation three; or if he applies at any time within three years from the establishment of the registration authority to be placed on the Column B of the register, and satisfies the registration authority that he fulfils the conditions set forth in regulation four.

3. A person shall be entitled to be placed on Column B of the register if he fulfils the following conditions :—

(1.) He must have obtained a degree conferred by some university of the United Kingdom, or have obtained one of the diplomas or certificates mentioned in Appendix A to these regulations, or have attained some other approved standard of general education.

(2.) He must either—

(i.) have resided and undergone a course of training for at least one year¹ at one of the universities or training colleges mentioned in Appendix D to these regulations or some other recognised institution for the training of secondary teachers, and have passed the examination for one of the diplomas or certificates in the theory and practice of teaching mentioned in Appendix C to these regulations; or

(ii.) have passed an approved examination in the theory of teaching, have spent at least one year as a student teacher under supervision at a recognised² school (not being an elementary school), and have produced evidence of ability to teach.

(3.) He must have spent at least one year of probation as a teacher at a recognised³ school (not being an elementary school), and must satisfy the registration authority that he has shown fitness for the teaching profession.

4. A person shall be entitled to be placed on Column B of the register if at any time within three years³ from the establishment of the registration authority he makes application to be so placed and fulfils the following conditions :—

(1.) He must have obtained a degree conferred by some university of the United Kingdom, or must show to the satisfaction of the registration authority that he has obtained one of the diplomas or certificates, or has passed one of the examinations mentioned in Appendices A and B to these regulations, or has attained some other approved standard of general education; and

¹ A further Order in Council, dated the 11th August 1902, provides that in subsection (2.) (1.) of Regulation 3, after the words 'for at least one year,' there shall be inserted 'or in the case of a student who has taken honours in a final examination for a degree after spending four academic years at some university in the United Kingdom have undergone a course of training for two terms at least taken continuously.'

² As to the recognition of schools for the purposes of these several regulations, see p. 678.

³ The Order of the 11th August 1902 provides that in Regulation 4, the period of four years from the establishment of the registration authority shall be substituted for three years. It has recently been announced that it has been decided that all teachers who begin work in April or May 1908 will be counted as having completed three years' service for the purposes of the Order by March 6, 1906.

(2.) He must either—

- (i.) have been engaged during the three years next preceding his application as a teacher at a recognised¹ school or schools (not being an elementary school or schools); or
- (ii.) have passed the examination for one of the diplomas or certificates in the theory and practice of teaching mentioned in Appendix C to these regulations, and produce evidence satisfactory to the registration authority of experience in teaching (other than the teaching in an elementary school or teaching of a purely elementary character) extending over a period of not less than three years.

Provided that a headmaster or headmistress of a recognised school, not being an elementary school, shall be entitled on application to be placed on Column B of the register without fulfilling the above conditions, if the applicant has held the office for at least one year previous to the date of his application.

5.—(1.) The registration authority may place on Column B of the register the name of any person who does not fulfil all the conditions of registration, but who, in their opinion, would have fulfilled all the necessary conditions but for the fact—

- (a) that part of the period of his study or training was spent in an approved course of study or training at a foreign university, college, or school, or
- (b) that part of the period of his study, training, or probation was spent in original research certified to have been conducted under proper supervision and to the satisfaction of the registration authority.

(2.) The registration authority may, if they think fit, at any time within three years from the establishment of the registration authority, place on Column B of the register the name of any person who does not fulfil all the conditions of registration but who has, in their opinion, proved himself to be an exceptionally qualified teacher.

(3.) The registration authority shall report to the Board every three months the name of every person registered under this regulation and the grounds of his registration.

SUPPLEMENTAL REGISTERS.

6. There shall be annexed to the register supplemental registers of teachers of music, drawing, physical training, manual instruction, cookery, needlework, and such other special subjects as may be from time to time approved.

A person shall be entitled to be placed on a supplemental register if he produces evidence² satisfactory to the registration authority—

- (i.) that he has acquired special knowledge of the subject after a thorough course of training,
- (ii.) that he is competent to teach the subject, and
- (iii.) that he has taught the subject for a period of not less than two years.

A person may be placed on one or more than one supplemental register whether he is or not placed on the register.

The form of a supplemental register shall be the same as that of the register except that Columns A and B shall be omitted.

7. A person whose name is placed on one or more of the supplemental registers, but not on either column of the register, shall not be entitled to describe himself as a registered teacher without also indicating the supplemental register or registers on which his name is placed.

Any person proved to the satisfaction of the registration authority to have wilfully so described himself shall be liable to have his name removed from any supplemental register on which it is placed, and shall not be entitled for a period of two years to have his name placed on any register of teachers.

GENERAL.

8. In the case of any person applying to be placed on Column B of the register, or any supplemental register, the registration authority may, if they think fit, and after giving the applicant an opportunity of being heard, refuse to register him on the ground that his moral character renders him unfit to be employed as a teacher.

¹ As to the recognition of schools for the purposes of these several regulations, see p. 678.

² The Board of Education have recently stated that the evidence which will be accepted for this purpose is still under consideration.

9. The registration authority may at any time remove from Column B of the register, or from any supplemental register, the name of any person proved to their satisfaction, and after such person has had an opportunity of being heard, to have been guilty of felony or misdemeanour or of conduct unbecoming a teacher.

10. Every person applying and qualified to be placed on Column B of the register, or on a supplemental register, shall, before he is so placed, pay to the registration authority the sum of twenty-one shillings. A further fee of two shillings and sixpence shall be paid by a teacher registered on Column B before any additional qualifications or experience is recorded on the register or any supplemental register.

11. No fee shall be payable for placing a person on Column A of the register, but if any person so placed applies to have registered any qualifications and experience other than those required by the Board from certificated teachers, he shall, before any such qualification or experience is recorded, pay the sum of two shillings and sixpence.

12. In approving or recognising a degree, diploma, certificate, examination, or other standard of education, for the purpose of Column B, or in recognising an institution for the purpose of training, or in approving subjects for a supplemental register, the Board shall act, after taking the advice of the consultative committee.

13. The registration authority shall from time to time and at least once every year present a report of their proceedings to the Board, together with their observations on the working of these regulations.

14. The register and every supplemental register shall be published annually, and shall be open at any reasonable time to public inspection on the payment of the proper fee, and any person shall, on payment of the proper fee, be entitled to take copies of and make extracts from the register and any supplemental register, and to have delivered to him extracts from any such register certified by the registrar to be true.

The fees for the purpose of this regulation shall be such as may be fixed by the registration authority with the approval of the Board.

15. In these regulations—

‘The Board’ means the Board of Education.

‘Approved’ or ‘recognised’ means approved or recognised for the time being by the Board for the purpose of the regulation in which the expression is used.

The ‘registration authority’ means the body to be established for forming and keeping the register.

16. These regulations may be from time to time modified and altered by regulations framed by the Consultative Committee with the approval of the Board.

APPENDIX A.

A Tripos certificate granted by the University of Cambridge to women.

A diploma or certificate showing to the satisfaction of the registration authority that the applicant, if a woman, has fulfilled all the conditions which, if the University of Oxford granted degrees to women, would entitle her to a degree in that university.¹

A diploma or certificate showing to the satisfaction of the registration authority that the applicant, if a woman, has fulfilled all the conditions which, if the University of Dublin granted degrees to women, would entitle her to a degree in that university.

The associateship of the Royal College of Science, London.

The associateship of the Central Technical College, London.

The fellowship of the College of Preceptors.

A special honours certificate of the Higher Local Examinations (Oxford and Cambridge), granted under the following conditions :—

- (i.) that the holder has passed in four groups or sections and obtained a first or second class in at least two of them ; and
- (ii.) that the certificate includes at least a pass in two languages, and at least a pass either in Mathematics or in Logic.

¹ The Order of the 11th August 1902 provides that the following words shall be added at the end of the second sentence in Appendix A, ‘or that under the conditions prescribed by the Delegacy for Local Examinations she has (1) passed the second public examination of the University, or (2) has obtained ‘honours in the Oxford University Examination for Women in Modern Languages.’

APPENDIX B.¹

London University—Intermediate Arts.
 " " Intermediate Science.
 Oxford University—Pass Moderations.
 " " Law Preliminary.
 " " Science Preliminary.
 Cambridge University—The General Examination.
 In case of women :—
 (i.) 'Moderations' or 'finals' in the University of Oxford.
 (ii.) Tripos examinations of the University of Cambridge or the 'standard of the ordinary degree.'
 Oxford and Cambridge Higher Local Examinations (Honours Certificate).
 Birmingham University—Intermediate Arts.
 " " Intermediate Science.
 Victoria University—Intermediate Arts.
 " " Intermediate Science.
 University of Wales—Intermediate Arts.
 " " Intermediate Science.
 Dublin University—Final Examination of Senior Freshman year.
 Royal University of Ireland—The Second University Examination in Arts.
 College of Preceptors—Licentiate ship.

APPENDIX C.

Diplomas or Certificates in the Theory and Practice of Teaching, granted by the following institutions :—

Oxford University.
 Cambridge " "
 London " "
 Victoria " "
 Durham " "
 Birmingham " (Higher Diploma).
 Edinburgh " (Secondary School Diploma).
 Aberdeen " (Diploma with Distinction).
 Glasgow " " "
 University of Dublin.
 Royal University of Ireland.
 College of Preceptors (Fellowship and Licentiate ship, together with the certificate of ability to teach).
 [See also note ² *infra*.]

APPENDIX D.

Institutions, etc., for the Training of Secondary Teachers :—

Course of training for secondary teachers at Oxford for the Oxford University Diploma. (This training would be accepted, provided that students stayed for a year.)
 University of Cambridge (Day Training College), Secondary Department.
 Durham University.
 Birmingham University.
 Owens College, Manchester.
 University College, Liverpool.

¹ The following have been added by the Board to Appendix B—
 Durham University—(a) Second Public Examination in Letters.

(b) Final examination for the title of A.Sc., Durham.

St. Andrews University—A certificate of the University granted under the regulations of the L.L.B. diploma examination, subject to certain further specified conditions.

² The Order of the 11th August 1902 provides that the following institution shall be added to those contained in Appendix C—

The National Froebel Union (Higher Certificate).

The Board have further recognised for the purpose of Appendix C—

The University of Wales—The Certificate and Diploma in Education.

Yorkshire College, Leeds (provided the training were of one year's duration).
 University College of North Wales, Bangor.
 University College of South Wales, Cardiff.
 University College of Wales, Aberystwith.
 Cambridge Training College.
 Maria Grey College, London.
 Cheltenham Ladies' College.
 Bedford College for Women, University of London.
 Mary Datchelor College, London.
 St. George's Training College, Edinburgh.
 Catholic Training College, Cavendish Square, London.
 St. Mary's Hall, Mount Pleasant, Liverpool.
 [See also note¹ *infra*.]

The Board of Education have issued the following statement giving information as to recognition of schools by the Board, for the purposes of the Teachers' Registration regulations:—

Registration in the Teachers' Register is effected by the Teachers' Registration Council, and all communications on the subject should be addressed to the Registrar, Teachers' Registration Council, 49 and 50 Parliament Street, London, S. W.

Service at a 'recognised school' for various periods is among the conditions prescribed for the registration of teachers in column B of the Teachers' Register.

Under §15 of the Registration regulations, 'recognised' means recognised for the time being by the Board of Education for the purpose of the regulation in which the expression is used.

No specific conditions are prescribed by the Board under which schools will be recognised for the purposes of the Registration regulations, and it is not intended at present to prescribe any.

Such schools will be recognised as are, in the opinion of the Board, efficient for the purposes in respect of which recognition is required.

At present the Board give recognition of two distinct kinds for the purposes of these regulations, namely, recognition for—

(a) the purposes both of Regulation 3 (3) and of Regulation 4 ;

(b) the purpose of Regulation 3 (2) ii.

With regard to (a)—

An application for the recognition of a school for the purposes of Regulations 3 (3) and 4 of the Schedule to the Order is not usually considered by the Board unless they have been notified by the Teachers' Registration Council that an application for registration in column B has been received from a teacher in the school involving the question of recognition, which renders it necessary for the Board to decide whether they will recognise the school or not. In any event, unless such a notification is received, no announcement is made to the school.

On the receipt of such a notification if the Board are not already in possession of sufficient information to enable them to decide, they will take whatever steps appear to them necessary to obtain it. As a rule, the case is referred to one of His Majesty's chief inspectors who is directed to make the necessary inquiries; he would probably request the Principal of the school to receive an informal visit from him on the subject. In the majority of instances the Board anticipate that the informal visit referred to would be sufficient, but they would usually offer a school which was not recommended for recognition by the inspector an opportunity of undergoing a more formal and thorough inspection under the Board of Education Act, 1899, §3, and of having the question reconsidered on its results.

¹ The Board of Education have also recognised for the purpose of Appendix D—
 University College, Bristol.
 The course of training for the teaching associateship of the Royal College of Science, London.
 St. Mary's College, Paddington.

With regard to (b)—

Applications for the recognition of a school for the purposes of Regulation 3 (2) ii. need not necessarily be made in connection with applications for registration. They may be addressed to the Board either directly or through the Teachers' Registration Council. In the case of these applications the Board would further require to be satisfied that the arrangements for the reception and professional training of student teachers were adequate, and would in nearly all cases require an inspection of the school under the above-named Act to be held, if the school has not recently been inspected under that Act.

Information as to these inspections will be found in §42 of the regulations of this Board for Secondary Day Schools.

It may be observed that by applying for recognition under the Registration regulations or by the application of a teacher for registration, a school is not committed in regard to its future action. The Board will notify the school of the information that they will require in order to decide the question. It will then be open to the school to afford facilities for the obtaining of that information or to withhold them, it being of course understood that where the Board do not obtain the information considered necessary, they will not be able to give recognition.

Recognition when given does not involve in itself any new jurisdiction of the Board over the school recognised.

Recognition will not extend beyond three years from the date on which it is given and may be withdrawn at any time at the discretion of the Board.

ELEMENTARY EDUCATION (BLIND AND DEAF CHILDREN) ACT, 1893.

56 and 57 Victoria, Cap. 42.

AN ACT to make better Provision for the Elementary Education of Blind and Deaf Children in England and Wales.

[12th September 1893.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Obligations of Parents as to Blind and Deaf Children.

1.—(1.) The efficient elementary instruction which under the Elementary Education Act, 1876,¹ a parent must cause his child to receive, shall, in the case of a blind or deaf child, be construed as including instruction suitable to such a child, and the fact of a child being blind or deaf shall not of itself, except in the case of a deaf child under seven years of age, be a reasonable excuse for not causing the child to attend school, or for neglecting to provide efficient elementary instruction for the child.

(2.) In the case of a blind or deaf child, the fact that there is not within any particular distance from the residence of the child any public elementary school which the child can attend shall not of itself be a reasonable excuse for not causing the child to attend school, or for neglecting to provide efficient elementary instruction for the child.²

¹ For the general declaration of the duty of a parent to cause his child to receive efficient elementary instruction, see §4 of the Elementary Education Act, 1876. That section provides that the instruction is to be in reading, writing, and arithmetic. This is now to be construed, in the case of a blind or deaf child, as including instruction suitable to such a child, and by §15 (1) of this Act, it is provided that the expression 'elementary education' may include industrial training whether given in the school which the child attends or not.

Section 11 of this Act provides that for the purposes of the Elementary Education Act, 1870 to 1891, a blind or deaf boy or girl shall be deemed to be a child until the age of sixteen years; and that the period of compulsory education shall, in the case of such a child, extend to sixteen years (see the note to that section, p. 682). Except therefore in the case of a deaf child under seven years of age, the ordinary provisions of the Elementary Education Acts, 1870 to 1900, as extended by this Act, apply to the attendance at school of blind or deaf children between the ages of five and sixteen years, and the attendance of such a child at school may be enforced as if it were required by byelaws under these Acts (see §74 of the Elementary Education Act, 1870, p. 246).

As to the meaning of 'parent,' see §3 of the Elementary Education Act, 1870, and the note thereon (p. 196).

As to the meaning of 'blind' and 'deaf,' it is provided by §15 (1) that in this Act the expression 'blind' means too blind to be able to read the ordinary school books used by children, and the expression 'deaf' means too deaf to be taught in a class of hearing children in an elementary school.

In cases of doubt the Board of Education usually require a medical certificate to be furnished to them.

² Inasmuch as the instruction, which a blind or deaf child is to receive, must be 'suitable to such a child' (§1 (1), *supra*), and as this can generally be the case only in schools 'for the time being certified by the Board of Education as suitable for providing such education' (§2 (1) *infra*), the distance of the child's home from the nearest ordinary public elementary school is not material to the question of the due fulfilment of the obligations imposed by this Act.

Duty of School Authority with respect to Blind and Deaf Children.

2.—(1.) It shall be the duty¹ of every school authority, as defined by this Act, to enable blind and deaf children resident² in their district, for whom elementary education efficient and suitable provision is not otherwise made, to obtain such education in some school for the time being certified³ by the Education Department as suitable for providing such education, and for that purpose either to establish⁴ or acquire and to maintain a school so certified, or to contribute, on such terms and to such extent as may be approved by the Education Department, towards the establishment or enlargement, alteration and maintenance⁵ of a school so certified, or towards any of these purposes, and, where necessary or expedient, to make arrangements, subject to regulation of the Education Department, for boarding out⁶ any blind or deaf child in a home conveniently near to the certified school where the child is receiving elementary education.

(2.) Provided that the duty of a school authority under this section shall not extend to children who are—

- (a) idiots or imbeciles; or
- (b) resident in a workhouse or in any institution to which they have been sent by a board of guardians from a workhouse; or
- (c) boarded out by guardians.⁷

(3.) Where a school authority contributes under this section to the establishment, enlargement, or alteration of a certified school maintained by another authority, the terms approved by the Education Department shall include security for repayment of the value of the contribution, in the event of the school ceasing to be certified.

¹ The powers and duties of 'school authorities' under this Act (see §4, and note thereon, p. 678) are transferred by §5 of the Education Act, 1902, to the local education authorities constituted under that Act (see the note to that section, p. 40).

² As to what constitutes residence in a district (on which the liability of the school authority depends), §15 (2) provides that for the purposes of this Act a child 'resident in a school or boarded out in pursuance of this Act' shall be deemed to be resident in the district from which the child is sent.

The Board of Education have expressed the opinion that, when the child is not 'resident in a school or boarded out in pursuance of this Act,' he must be considered to be resident in the district in which he is actually residing at the time when the question as to his 'residence' arises. Accordingly, when the parent of a child who is in a certified school removes from the district of one school authority to that of another, the Board have stated that if the child were sent home to his parent from the institution (as

would be done on the repudiation by the former school authority of their liability) it would appear that the latter school authority would become liable for his education under §2 of the Act. The Board of Education have suggested in such cases that arrangements should be made between the two authorities which would enable the child to remain at the institution without any break of continuity in his education.

³ Section 15 (1) of the Act provides that the expression 'school' includes any institution in which blind or deaf children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified school.

For the conditions and effect of the grant of a certificate by the Board of Education to a school for blind or deaf children, see §7 of this Act (p. 679) and the note thereon.

⁴ For the building rules issued by the Board of Education for schools for blind or deaf children, see p. 687.

⁵ It will be observed that the sanction of the Board of Education to a contribution made by a school authority under this Act is required only to the contribution made towards the 'establishment or enlargement, alteration and maintenance' of a certified school. The Board, in sanctioning a contribution towards maintenance, usually point out that in cases where, in addition to expenses properly included under the term 'maintenance,' boarding-out expenses are incurred, the latter must be in accordance with the boarding-out regulations (p. 685).

⁶ For the regulations of the Board of Education as to boarding-out blind and deaf children, see p. 685.

The Board of Education have stated in reply to enquiries that, in their opinion, a deaf child is not excluded from the operation of the Act by reason of its being dumb. On the other hand the magistrates sitting at Chesham on the 7th March, 1900, declined to make an order, asked for by the Chesham school board, for sending a deaf child, who was also dumb, to a certified school for deaf children.

In cases where the Board of Education have been asked to approve the continuance of a contribution by a school authority in respect of children who have passed the age of sixteen, the Board have stated that they are advised that the duty of a school authority under §2 of the Act, with reference to a blind or deaf child, ceases when the child attains that age, and that the Board have therefore no authority to approve the suggested contribution. It may, however, be possible in future for local education authorities to avail themselves for this purpose of their powers under Part II. of the Education Act, 1902.

With regard to deaf children between the ages of five and seven, the Board of Education have stated that they are not aware that the duties of school authorities under §2 of the Act are limited in the case of deaf children to those over seven years of age; and they have added that they are prepared to approve a contribution by the authority under that section in respect of a deaf child of five years of age.

A child who is dumb, but not deaf, does not come under the provisions of this Act, but such a child would usually come within the provisions of the Elementary Education (Defective and Epileptic Children) Act, 1899 (p. 689).

⁷ See §13 (p. 683).

Power to make Provision for Representation.

3. The terms of contribution approved by the Education Department may include provision for representation of the contributing school authority on the governing body of the school to which it contributes, in cases where such representation appears to the Education Department to be practicable and expedient.

Constitution of School Authority.

4. The school authority for the purposes of this Act shall be—

(a) for an area under a school board, the school board;

(b) for an area not under a school board, any district council established

for the local government of the district comprising that area under an Act of the present or any future session of Parliament, acting through a committee of that council appointed for educational purposes. And until such a council is established, the board of guardians, or borough council or urban sanitary authority, appointing a school attendance committee for the area, acting through that committee.¹

¹ The last sentence of this section was repealed by §8 of the Elementary Education Act, 1900 (p. 330), since it was no longer necessary in view of the general establishment of district councils by the Local Government Act, 1894.

The first part of subsection (b) is repealed by the Education Act, 1902, since the provisions of §5 and Schedule III. (1) of that Act give to the local education authority, acting under Part III. thereof, the powers and duties of a school board throughout their area (see note 2 to that section, p. 40), whether there was or was not a school board acting under the Elementary Education Acts for the whole or any part of the area.

The district councils which cease to be school authorities for the purposes of this Act by reason of the Education Act, 1902, are (a) town councils of boroughs with a population not exceeding 10,000; (b) councils of urban districts with a population not exceeding 20,000; (c) all rural district councils.

For provisions respecting the transfer to the county council of the property or rights acquired and the liabilities incurred under this Act by any council thus ceasing to be a school authority under the Act, and respecting the manner in which expenses incurred by the county council to meet any liability of a school authority under this Act (whether a district council or not), which is transferred to them may be raised, see Schedule II. (7) to the Education Act, 1902, *ante*.

Powers and Expenses of School Authority.

5.—(1.) For the performance of their duties under this Act a school authority may, without prejudice to any other powers, exercise the like powers as may be exercised by a school board for the provision of school accommodation for their district,¹ and the consent of the Education Department to the exercise of the power of borrowing for the purposes of this Act may be given in any case in which the exercise of that power appears to the Department expedient.²

(2.) The expenses of a school authority under this Act shall be paid out of the fund applicable to their general expenses,³ *or where the school authority are a board of guardians, out of a fund to be raised out of the poor rate of the parishes for which the school attendance committee of the board act, according to the rateable value of each parish.*³

(3.) *Two or more school authorities may combine for the performance of their duties under this Act, and, subject to the provisions of this section as to expenses, section fifty-two of the Elementary Education Act, 1870, shall apply in the case of any such combination as if each school authority were a school board, and the enactments relating to the audit of school board accounts shall apply as if any joint body of managers appointed in pursuance of this subsection were a school board.*⁴

(4.) *The Public Works Loan Commissioners may, on the recommendation of the Education Department, lend any money required for the purposes of this Act by a school authority on the security of the fund applicable to the expenses of this Act, and every such loan shall be repaid within a period not exceeding fifty years, and shall bear such rate of interest, not less than three and a half*

*per cent. per annum, as the Treasury may authorise as being in their opinion sufficient to enable the loan to be made without loss to the Exchequer.*⁵

¹ For the powers which may be exercised by a school board for the provision of public school accommodation for their district, *see especially* §§19 and 20 of the Elementary Education Act, 1870 (*ante*).

² For the exercise of the power of borrowing, *see* §19 of the Education Act, 1902 (p. 135).

³ For the fund out of which the expenses under this Act of a local education authority will in future be payable, *see* §18 of the Education Act, 1902, and for special provision as to liabilities transferred to a county council from a district council which ceases to be a school authority under this Act, *see* Schedule II. (7) of the Education Act, 1902.

⁴ *See* §3 of the Elementary Education Act, 1900, and the note thereon (p. 328).

Provision for contribution by the parent of a blind or deaf child to the expenses of a school authority under this Act is made by §9 (*infra*).

⁵ Sub-sections (3) and (4) are repealed by the Education Act, 1902. The last two and a half lines of sub-section (4) had already been repealed by the Public Works Loans Act, 1897.

Sub-section (3) extended the power of combination between school boards which is given by §52 of the Elementary Education Act, 1870, to cases where it might be desired to effect a combination between district councils, or between one or more district councils and one or more school boards. In view of the provisions of §5 of the Education Act, 1902 (p. 39), which are referred to in the note to §4 of this Act, *supra*, the extended powers of combination given by this sub-section become unnecessary.

The repeal of sub-section (4) is consequent on the provisions of §19 of the Education Act, 1902 (p. 135).

Provision in Case of Failure of Duty by School Authority.

6. *If the Education Department are satisfied, after such inquiry and such notice to a school authority or to a committee of the authority as they think expedient, that the school authority or a committee of the authority have failed to perform their duty under this Act, the Education Department may either—*

- (1.) *proceed in manner directed by section twenty-seven of the Elementary Education Act, 1876: or*
- (2.) *order that the school authority pay to any certified school specified in the order, towards the expenses of any particular child at the school, such annual or other sum as may be fixed by order of the Department, and any sum so ordered to be paid shall be a debt to the school from the school authority.*¹

¹ This section is repealed by the Education Act, 1902, *ante*. For the substituted powers given to the Board of Education under that Act, *see* §16 of the Act and the note thereon.

Conditions and Effect of Grant of Certificate to School for Blind or Deaf Children.

7.—(1.) A school shall not be certified¹ by the Education Department as suitable for providing elementary education for blind or deaf children—

- (a) if it is conducted for private profit; nor
- (b) unless it is either managed by a school authority, or the annual expenses of its maintenance are, to the extent of not less than one third, defrayed out of sources other than the local rates,² or moneys provided by Parliament, and are audited and published in accordance with regulations of the Education Department;³ nor

- (c) unless it is open at all times to the inspection of Her Majesty's Inspectors of Schools, and of any visitors authorised by any school authority sending children to the school ; nor
- (d) unless the requirements of this Act are complied with in the case of the school.

(2.) Every school so certified (in this Act referred to as a certified school) shall be deemed to be a certified efficient school within the meaning of the Elementary Education Act, 1876, and for the purposes of section eleven of that Act may, in the case of a blind or deaf child, be treated as if it were a public elementary school.⁴

(3.) A certificate granted in pursuance of this section shall be annual.

(4.) For the purposes of this section there shall be included in local rates any sum received under this Act by a school authority from a parent⁵ and applied towards the general expenses of the school authority.

¹ In a circular letter issued to school authorities, dated the 21st April 1894, the Education Department stated as follows :—

It will be observed that the only schools which school authorities may themselves maintain or to which they may make payments under the Act are schools certified by the Education Department. These schools will not necessarily be public elementary schools, and the expression *school* when used in the Act includes not only 'institutions in which blind or deaf children are boarded and lodged as well as taught,' but also 'establishments for boarding or lodging children taught in a certified school' (§15). These certified schools may receive grants from the Education Department in respect of the education given by them (§12), and certain special conditions must be fulfilled by them. The most important of these conditions for the present purpose are the following. The school must not be conducted for private profit. It must be open at all times to Her Majesty's inspectors of schools and to the school authorities sending children to it, the certificate of the Education Department must be renewed annually (§7), and if the school is not a public elementary school it must in all matters relating to the religious instruction and observances of the children be conducted in accordance with the rules applying to industrial schools, which may be modified from time to time as regards certified schools by the Education Department (§8 (1) and (2)). The rules applying to industrial schools are printed on a separate form [these rules will be found in the note to §8, *infra*], which may be obtained on application to the department. It should be further noted that the Act contains special provisions for the religious liberty of children both as regards the schools which they may be compelled to attend and the homes in which they may be boarded out (§8 (3) and (4)).

² See sub-section (4).

³ The regulations made under this sub-section by the Education Department as to audit and publication are as follows :—

(1.) The accounts shall be audited annually either by a chartered accountant, a banker, or bank manager, or a professional auditor.

(2.) Immediately on the receipt of the inspector's annual report on the school, the managers must publish the last account of income and expenditure, furnished to the department, by advertisement in one or more newspapers circulating in the districts supplied by the school. They must also publish in the same manner, and at the same time, a notice that the said account will be, during the ensuing year, open to inspection at the school or other convenient place at any reasonable time except the ordinary school hours, and that copies or extracts may be made, and they must submit the same to inspection, and permit such copies or extracts to be made accordingly.

⁴ With regard to the expression 'certified efficient school,' see §48 of the Elementary Education Act, 1876 (p. 304).

See also note 3 to §11 of that Act (p. 285).

⁵ See §9, *infra*.

Provisions as to Religious Instruction.

8.—(1.) If and so far as the school which a child is required in pursuance of this Act to attend is not a public elementary school, it must, in all matters relating to the religious instruction and observances of the child, be conducted in accordance with the rules applying to industrial schools,¹ except that references in the Industrial Schools Act, 1866, and the rules made under it, to the Secretary of State shall be construed as references to the Education Department; and any school authority may provide and maintain for the purposes of this Act a school so conducted.

(2.) Every rule made under this section shall be forthwith laid before both Houses of Parliament.

(3.) In selecting a school under this Act the school authority shall be guided by the rules laid down in the Industrial Schools Act, 1866,² and if a child is boarded out in pursuance of this Act, the school authority shall, if possible, arrange for the boarding out being with a person belonging to the religious persuasion of the child's parent.

(4.) Where a child is required in pursuance of this Act to attend any school, the child shall not be compelled to receive religious instruction contrary to the wishes of the parent, and shall, so far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with the parent's persuasion, which shall be duly registered on the child's admission to the school.³

¹ This section relates only to schools certified under this Act which are not public elementary schools (see the note to §7, *supra*). If the certified school is a public elementary school, the arrangements for religious instruction must conform to §7 of the Elementary Education Act, 1870; and further, if such a school is one provided by the local education authority, acting as the successors of a school board, the religious instruction must conform to §14 (2) of that Act.

The rules applying to Industrial Schools, relating to the religious instruction and observances of children therein, are as follows:—

'Each day shall be begun and ended with simple family worship, consisting of prayer and praise to God, and the reading of Scripture. The religious instruction shall be governed by the following rule:—

'The ordinary religious instruction and observances shall consist of prayers and hymns and reading from the Bible, with such explanations and instructions in the principles of religion and morality as are suited to the capacity of children; and in the selection of such prayers and hymns, and in explanations and instructions from the Bible, no attempt shall be made to attach children to, or to detach them from, any particular denomination.

'No child should be required to attend any religious instruction or observance, or should be taught the catechism or tenets of any religion to which his parents or guardians object, or other than that to which he is stated in the order of detention to belong. With regard to children who are specified in the order of detention as belonging to any particular religious persuasion the managers shall, so far as practicable, make arrangements that such children shall, during the times set apart for religious instruction, attend religious instruction or observances conducted by ministers of such persuasions or by such responsible teachers of the school or other persons as are delegated by such ministers with the approval of the managers.

'While any religious instruction or observance is going on none of the scholars or teachers shall be employed in any other manner in the same room.

'On Sunday the inmates shall, if possible, attend public worship at some convenient church or chapel, provided that no boy or girl shall be taken to any church or chapel to which his parents or guardians object on the ground that its religious services are not in accordance with the religious persuasion of the child, or to which he is stated in the order of detention to belong.'

² These rules are contained in §§18 and 20 of the Industrial Schools Act, 1866.

³ See also article 6 (7) of the regulations as to boarding-out blind and deaf children.

Liability of Parent for Expenses of Blind or Deaf Child.

9.—(1.) Where a school authority incur any expense under this Act in respect of any blind or deaf child, the parent of the child shall be liable to contribute towards the expenses of the child such weekly sum, if any, as, regard being had to the provisions of the Elementary Education Act, 1891, may be agreed on between the school authority and the parent, or, if the parties fail to agree, as may, on the application of either party, be settled by a court of summary jurisdiction, and any sum so agreed on or settled may, without prejudice to any other remedy, be recovered by the school authority summarily as a civil debt.

(2.) It shall be the duty of the school authority to enforce any order made under this section, and any sum received by a school authority under this section may be applied by the school authority in aid of their general expenses.¹

(3.) A court competent to make an order under this section may at any time revoke or vary any order so made.

¹ As to the meaning of the expression 'expenses,' see §15 (1), *infra*.

Saving for Rights of Parent.

10.—(1.) The parent of a blind or deaf child shall not, by reason of any payment made under this Act in respect of the child, be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

(2.) Payments under this Act shall not be made on condition of a child attending any certified school other than such as may be reasonably selected by the parent, nor refused because the child attends or does not attend any particular certified school.

Period of Education for Blind and Deaf.

11. For the purposes of the Elementary Education Acts, 1870 to 1891, a blind or deaf boy or girl shall be deemed to be a child until the age of sixteen years; and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school may be enforced as if it were required by byelaws made under the Elementary Education Acts, 1870 to 1891; and any such child shall not, in pursuance of any such bye-laws, be entitled to total or partial exemption from the obligation to attend school.¹

¹ The effect of this provision, read with §48 of the Elementary Education Act, 1876 (p. 305), and §1 (1) of this Act, is that the period of compulsory education, in the case of a blind child, lasts from the age of five to the age of sixteen, and, in the case of a deaf child, from the age of seven to the age of sixteen. See also note (7) to §2, *supra*.

Grants from Public Money towards Education of Blind and Deaf Children.

12. Nothing in any Act of Parliament shall prevent the Education Department from giving aid from the parliamentary grant to a certified school

in respect of education given to blind or deaf children to such amount and on such conditions as may be directed by or in pursuance of the minutes of the Education Department in force for the time being.¹

¹ This section renders inoperative, so far as schools certified under this Act are concerned, the provisions of §96 of the Elementary Education Act, 1870, which enacted that after the 31st March 1871 no parliamentary grant was to be made to any elementary school which was not a public elementary school within the meaning of that Act.

For the minute of the 2nd April 1894, providing for grants on account of the education of the blind and deaf children, see p. 684.

Repeal of Powers of Guardians to send Blind or Deaf Children to School.

13.—(1.) As from the first day of July one thousand eight hundred and ninety-four so much of any enactment in force at that date as empowers boards of guardians to send blind or deaf children to school shall be repealed, except as to children who are—

- (a) idiots or imbeciles ; or
- (b) resident in a workhouse or in an institution to which they have been sent by a board of guardians from a workhouse ; or
- (c) boarded out by guardians.

(2.) Provided that, where any blind or deaf child with respect to whom the powers of guardians cease in pursuance of this section is on the first day of July one thousand eight hundred and ninety-four relieved in any institution by a board of guardians, the child shall continue chargeable as if this Act had not passed, until the expiration of six months' notice to be given by the guardians, if they think fit, to the school authority of the district from which the child was sent.¹

¹ This section, subject to the temporary proviso in sub-section (2), transferred the powers formerly possessed by guardians with regard to the education of blind and deaf children (except children falling under (a), (b), or (c) of sub-section (1)) to the school authorities established under this Act. These powers are now transferred by the Education Act, 1902, to the local education authorities constituted under that Act.

Report to be laid before Parliament.

14. The Education Department shall annually lay before both Houses of Parliament a report of their proceedings under this Act during the preceding year, and in that report shall give lists of the schools to which they have granted and refused certificates under this Act during the year, with their reasons for each such refusal.

Interpretation of Terms.

15.—(1.) In this Act—

- The expression 'blind' means too blind to be able to read the ordinary school books used by children ;
- The expression 'deaf' means too deaf to be taught in a class of hearing children in an elementary school ;
- The expression 'school' includes any institution in which blind or deaf children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified school ;
- The expression 'elementary education' may include industrial training whether given in the school which the child attends or not ;¹
- The expression 'maintenance' includes clothing ;
- The expression 'expenses,' when used in relation to a child, includes the expenses of and incidental to the attendance of the child at a

school, and of and incidental to the maintenance and boarding-out of the child while so attending, and the expenses of conveying the child to or from the school ;

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education Acts, 1870 to 1891.

(2.) For the purposes of this Act a child resident in a school or boarded out in pursuance of this Act shall be deemed to be resident in the district from which the child is sent.²

¹ See paragraph (b) of the minute of the 2nd April 1894, on this page, *infra*.

² As to the expression 'resident,' see also the second note to §2, *supra*.

Extent of Act.

16. This Act shall not extend to Scotland or Ireland.

Commencement of Act.

17. This Act shall come into operation on the first day of January one thousand eight hundred and ninety-four.

Short Title.

18. This Act may be cited as the Elementary Education (Blind and Deaf Children) Act, 1893, and shall be read with the Elementary Education Acts, 1870 to 1891.

MINUTE OF THE COMMITTEE OF COUNCIL ON EDUCATION, DATED 2ND APRIL 1894, PROVIDING FOR GRANTS ON ACCOUNT OF THE EDUCATION OF BLIND AND DEAF CHILDREN.

At the Council Chamber, Whitehall, the 2nd day of April 1894.

BY THE LORDS OF THE COMMITTEE OF HER MAJESTY'S MOST HONOURABLE
PRIVY COUNCIL ON EDUCATION.

Their Lordships having had under consideration the Elementary Education (Blind and Deaf Children) Act, 1893 :—

Resolved,—

For each blind or deaf child who has attended a certified school for not less than one month during the school year, grants may be allowed for each complete month of attendance :

(a) At the rate of £3, 3s. a year if such child has received with due regularity efficient elementary education other than manual instruction or industrial training, and his attainments are found to be satisfactory, regard being had to his necessary disqualifications.

(b) At the rate of £2, 2s. a year if such child has received with due regularity satisfactory instruction and made satisfactory progress in some course of manual instruction or industrial training approved by the Department.

Provided that all returns called for by the Department are duly made by the managers.

The term 'certified school' means a school certified under §2 of the Elementary Education (Blind and Deaf Children) Act, 1893.

Grants under this Minute are not paid for any child in respect of any period for which grants are paid for the same child under the Code of Minutes of the Department in force for the time being with respect to the payment of the parliamentary grant to public elementary schools.

REGULATIONS AS TO BOARDING-OUT BLIND AND DEAF CHILDREN.

*(Elementary Education (Blind and Deaf Children) Act, 1893,
sec. 2 (1)).*

At the Council Chamber, Whitehall, the 22nd day of April 1895.

BY THE LORDS OF THE COMMITTEE OF HER MAJESTY'S MOST HONOURABLE
PRIVY COUNCIL ON EDUCATION.

The Lords of the Committee of Privy Council on Education, by virtue and in pursuance of the powers in them vested under the Elementary Education (Blind and Deaf Children) Act, 1893, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following regulations be observed :—

1. A school authority may, subject to the provisions of these regulations, board-out blind or deaf children resident in their district in homes conveniently near to a school for the time being certified by the Education Department as suitable for providing elementary education for such children respectively, under arrangements approved by the Education Department with a boarding-out committee, constituted as hereinafter mentioned.

2. A boarding-out committee shall consist of three or more persons, to be approved by the Education Department, who shall have signed an engagement in the form annexed to this order (Schedule I.).

3. Any person deriving any pecuniary or other personal profit from the boarding-out of any child shall be thereby disqualified from becoming or continuing to be a member of any such boarding-out committee.

4. The boarding-out committee shall from time to time appoint one of their members to act as secretary; and it shall be the duty of the secretary punctually to inform the Education Department of any vacancies which may be caused by death, resignation, or otherwise, amongst the members of the committee, and to submit the names of the persons proposed to fill the vacancies.

5. A child may be withdrawn from a home by its parents or by the school authority of the district from which the child is sent, notice of the intention to do so being given at least one week beforehand to the boarding-out committee; and the foster-parent shall, upon the demand of a person duly authorised in writing by the boarding-out committee, or by the school authority, or by the parent, deliver up the child to such person.

6. The regulations to be observed by the school authority with respect to such boarding-out of deaf or blind children shall be as follows :—

- (1.) There shall not be more than two blind or two deaf children resident in the same home at the same time, whether boarding-out or not.
- (2.) No blind child shall be boarded-out in a home where there is a deaf child, nor a deaf child where there is a blind child.
- (3.) No child shall be boarded-out in a home in which, at the time when the child would first be placed in it, there would be with such child more than four children resident, or in which any pauper child is boarded-out by the guardians.
- (4.) No child shall be boarded-out with any person who is at the time, or who has been within twelve months preceding, in receipt of relief; and if the foster-parent shall at any time become in receipt of relief, any child boarded-out with him shall be withdrawn from him.
- (5.) The school authority shall, if possible, arrange for the boarding-out being with a person belonging to the religious persuasion of the child's parent. (Section 8 (3) of the Act.)
- (6.) No child shall be boarded-out without a certificate, in the form annexed to this order (Schedule II.), signed by a duly qualified medical practitioner, stating the particulars of the child's health, such certificate to be forwarded by the school authority to the boarding-out committee.
- (7.) Before receiving any child to be boarded-out with him, the foster-parent shall sign an undertaking in duplicate, which shall, in addition to any other matter which may be agreed upon, contain an engagement on the part of the foster-

parent, that, in consideration of a certain sum per week, he will bring up the child as one of his own children, and provide the child with proper food, lodging, and washing, and endeavour to train the child in habits of truthfulness, obedience, personal cleanliness, and industry, as well as in such special industry or occupations as may be prescribed by the managers of the certified school which the child attends; that he will take care that the child shall attend duly at church or chapel according to the religious denomination to which the child belongs, and shall attend the particular certified school directed by the school authority according to the provisions of the law for the time being, and will make such provision as may be necessary for the escort of the child to and from church or chapel and school; that he will provide for the proper repair and renewal of the child's clothing, and that, in case of the child's illness, he will forthwith report such illness to the school authority, to the child's parent, and to the boarding-out committee: and that he will at all reasonable times permit the child to be visited by his parent, and will at all times permit the child to be visited, and the house to be inspected by any member of the boarding-out committee, and by any person specially appointed for that purpose by the school authority or by the Education Department. The undertaking shall also contain an engagement on the part of the foster-parent that he will, upon the demand of the child's parent, or of a person duly authorised in writing by him or by the boarding-out committee, or by the school authority, give up possession of the child.

Such undertaking shall be made in triplicate according to the form annexed to this order (Schedule III.). One copy of it shall be kept by the foster-parent, another by the school authority, and another by the child's parent.

(8.) On the delivery of the child to the foster-parent an acknowledgment shall be given in the form hereinafter prescribed (Schedule IV.), or to the like effect.

(9.) In no case shall the sum to be paid to the foster-parent for the maintenance of a child, inclusive of lodging, but exclusive of clothing, school-fees, fees for medical attendance, medicines, and extras ordered by a medical attendant, be less than six or more than ten shillings per week.

(10.) Unless arrangements can be made for transit by some public conveyance, no child shall be boarded-out in a home distant more than one mile from the certified school which the child attends.

(11.) The managers of the certified school shall undertake to receive the child and to send to the school authority at least once a quarter a written report upon the child, in the form annexed to this order (Schedule V.).

(12.) No child shall be boarded-out in any home which is distant more than five miles by the nearest road of access from the residence of some member of the boarding-out committee.

7. Every boarded-out child shall be visited not less often than once in every month by a member of the boarding-out committee at the home of the foster-parent, and the visitor shall thereupon make a report in writing to the committee, mentioning the apparent bodily condition and the behaviour of such child, and the state of the home, and all reasonable complaints made by the child or the foster-parent.

These reports shall be forwarded by the boarding-out committee to the school authority and to the child's parent not less often than quarterly.

If in the case of any boarded-out child no such report shall be received by the school authority or the parent for the space of four consecutive months, the school authority shall in default of satisfactory explanation withdraw the child from the home with all reasonable expedition.

8. (1.) The clerk to the school authority shall, as soon as practicable after the first day of April and the first day of October in every year, make a return to the Education Department, in the form annexed to this order (Schedule VI.), of the several children remaining so boarded-out on those dates respectively. Separate returns shall be made for blind and deaf children respectively.

(2.) The secretary to the boarding-out committee shall make a return to the Education Department as soon as practicable after the first day of January and the first day of July in every year of the several children remaining boarded-out under the supervision of the committee on those days respectively under these regulations. Such return shall be made according to the prescribed form, Schedule VII. of this order, and shall be made separately for blind and deaf children respectively.

9. If the Education Department shall withdraw from any boarding-out committee the authority to enter into arrangements with school authorities, the school authorities

who have made arrangements with the said committee for the boarding-out of children shall, on receiving notice of such withdrawal, provide with all reasonable expedition for the return of all children boarded-out in homes found by such committee to their own homes or for their transfer to homes found by another boarding-out committee. Provided that it shall not be necessary for the school authority to take back such children if the Education Department declare that the withdrawal of authority from the committee shall not apply to children already boarded-out under their superintendence.

10. Where the arrangements made by a school authority with any boarding-out committee under these regulations include the payment of any sums by such committee on behalf of the school authority, the school authority may, if they think fit, advance to the boarding-out committee quarterly a sum not exceeding three-fourths of the expenditure which, in pursuance of such arrangements, may reasonably be expected to be incurred by such committee during the ensuing quarter.

11. In this order—

The term 'foster-parent' means the persons or person with whom any child is boarded-out under the provisions of this order.

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education (Blind and Deaf Children) Act, 1893.

All words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided.

G. W. KEKEWICH,
Secretary.

Note.—The Schedules contain the forms of engagements, certificates, and returns, referred to in the foregoing regulations.

SCHOOLS FOR BLIND OR DEAF CHILDREN.

BUILDING RULES.

Schools for the blind and the deaf should not be held in the same building.

The following rules should be read in connection with the General Rules laid down in Schedule VII.¹ of the Day School Code as to drainage, warming, and ventilation.

Recreation Grounds.

Where no field or other larger space has been secured, the superficial area of the site should be not less than 30 square feet per child. The recreation grounds for girls and boys should be separate. There should be a covered gymnasium, or large shed open on one side, provided with ample top light, which, under supervision, may be used by boys and girls together.

Schoolrooms.

The area should be (as a rule) not less than 20 square feet per child, and the cubic contents should not be less than 240 cubic feet. The position should be on the ground floor, near the playground. Where boys and girls are taught in one room, the exits should be separate.

The light should be such as to suit the mode of teaching employed.

The children should, as a rule, be arranged in a semicircle round the teacher, and provided with top light in order to enable the teacher to see, in the case of the blind, every change of facial expression, and in order that in the case of the deaf, the teacher and scholars may observe closely the action of the lips.

Where the children are not arranged in a semicircle, the light should be ample from both sides of the room.

Day Rooms.

These should be of at least the same size as the schoolrooms.

¹ These rules are now issued as a separate publication, and not as a Schedule to the Day School Code (see p. 627).

Dining Rooms.

These should be of sufficient size to seat each child comfortably, with space for the passage of waiters. There should be a minimum of 6 square feet per child.

Dormitories.

The minimum width should be 18 feet, the minimum area should be 36 square feet per child, and the minimum cubic capacity 360 cubic feet per child. A separate bed must be provided for each child, with sufficient space between the beds.

A dormitory should be supervised by means of a window in the bedroom of the officer in charge. In houses, or homes, having small bedrooms, the officer's bedroom should be closely adjoining on the same floor, and the doors of the bedrooms left wide open at night.

No boys over nine years of age should be lodged with girls, unless in a distinct wing approached by a separate staircase.

Boys under nine years of age may be lodged with girls, but must have separate sleeping rooms.

Each teacher should (as a rule) also have a separate room.

Sick Rooms.

These should be separate for each sex, and should consist of two rooms in each case—viz., one for the patients and the other for the nurse.

A detached building is also necessary for infectious cases, except in the neighbourhood of a hospital to which cases can be readily conveyed.

Baths.

These should be supplied with hot and cold water, and should be sufficient to enable each child to obtain a bath at least once a week in winter and twice in summer. There must be a separate towel for each child. Lavatory basins should be sufficient to enable each child to wash the hands, face, and upper portion of the body morning and evening. No two children may wash at once at the same basin.

Latrines.

For day.—The provision of closets should be 10 per cent. on the number of boys, together with a urinal; and 15 per cent. on the number of girls.

For night.—One or two closets should be provided adjoining the dormitories, but disconnected therefrom by a lobby having a current of air by windows on two sides.

Staircases and Corridors.

These must be fireproof.

Fire Escapes.

Where only one staircase exists, or where the dormitories are at some distance from the staircases, fire escapes should be provided.

ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899.

62 & 63 Victoria, Cap. 32.

AN ACT to make better provision for the Elementary
Education of Defective and Epileptic Children in England
and Wales. [9th August 1899.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Power to School Authority to determine what Children are Defective or Epileptic.

1.—(1.) A school authority,¹ as defined by the Elementary Education (Blind and Deaf Children) Act, 1893, may,² with the approval of the Education Department,³ make such arrangements as they think fit for ascertaining—

(a) what children in their district, not being imbecile, and not being merely dull or backward, are defective, that is to say, what children by reason of mental or physical⁴ defect are incapable of receiving proper benefit from the instruction in the ordinary public elementary schools, but are not incapable by reason of such defect of receiving benefit from instruction in such special classes or schools as are in this Act mentioned ; and

(b) what children in their district are epileptic children, that is to say, what children, not being idiots or imbeciles, are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.

(2.) The school authority, in making their arrangements under this section, shall provide facilities for enabling any parent, who is of opinion that his child ought to be dealt with under this Act, to present such child to the school authority to be examined, although he may not have been required so to do by that authority ; and any school authority failing to provide such facilities shall be deemed to have acted in contravention of this Act.

(3.) For the purpose of ascertaining whether a child is defective or epileptic within the meaning of this section, a certificate to that effect by a duly qualified practitioner approved by the Education Department shall be required in each case. The certificate shall be in such form as may be prescribed by the Education Department.⁵

(4.) For the purpose of the exercise of the powers conferred by this section, it shall be the duty of the parent of any child who may be required by the

school authority to be examined to cause the child to attend such examination, and any parent who fails to comply with such requirement shall be liable on summary conviction to a fine not exceeding five pounds.

¹ See §4 of Elementary Education (Blind and Deaf Children) Act, 1893, and note thereto. The local education authority under the Education Act, 1902, becomes in all areas the school authority for the purposes of the present Act; and Schedule II. (7) of the Education Act, 1902, provides for the transfer to the county council of the property, rights, and liabilities of a district council which ceases to be a school authority within the meaning of the present Act.

² This Act, in its main features, is similar to the Elementary Education (Blind and Deaf Children) Act, 1893, the principal difference being that the Blind and Deaf Children Act is compulsory on all local education authorities, while the Defective and Epileptic Children Act is permissive only.

³ In a circular letter to school authorities, dated March 1900, the Education Department wrote:—

‘The arrangements for ascertaining what children are defective or epileptic should, if possible, include the production of particulars as to the family history of the child, and as to the habits, capacity, and attainments of the child as observed by the teacher of the school which it may have attended. The examination should be confined to children who are not less than seven years old, and it should be held by the medical officer of the school authority. The teacher who has had charge of the child should be present, and the opportunity of being present should be given to the parent of the child and to Her Majesty’s inspector; and, in the case of a defective child, to the teacher of the special class in the neighbourhood. The examination should be applied not only to children who have been attending infants’ schools, but to children who have been absent altogether from school by reason of mental or physical defect. It will be observed that, by §1 (4) of the Act, a parent is bound to cause his child to attend such examination, if required by the school authority, under a penalty of £5. A school authority which intends to submit to the Education Department proposed arrangements for ascertaining what children are defective or epileptic, may find further guidance from paragraphs 22 and 23 of the Report of the Departmental Committee on Defective and Epileptic Children, 1898.’

Before approving the arrangements of school authorities, the Board of Education require to see samples of the forms in which the results of the examination are recorded, including that in which the detailed observations of the medical officer are entered. Model forms (the use of which, however, is not compulsory) are issued by the Board of Education for the assistance of school authorities in framing their arrangements for the examination of defective children.

⁴ In cases in which school authorities have proposed to make provision by means of special classes under this Act for children physically, and not mentally, defective, the Board of Education have expressed the opinion that, though such children may in some cases be proper subjects for such classes, yet there is need of careful discrimination, and that such children, if their physical defects are such as to cause suffering during school hours, would be better in a hospital or other place where they could receive suitable attention. If, however, their defects are not such as to cause suffering during school hours, the main question to be decided is whether the child cannot keep up with, and is unable to benefit by, the instruction given to intelligent children in ordinary schools, and requires, and can benefit by, instruction of a special character which can only be given in special schools.

The provision of guides or conveyances under §3 of the Act is not limited to children attending special classes, but is intended also to meet the case of children who would otherwise be prevented, by some physical defect, from attending ordinary public elementary schools.

³ The forms of certificate prescribed by the Board of Education are as follows :—

(a) For Defective Children.

I, A.B., a duly qualified practitioner, approved by the Education Department, certify that Y.Z., not being imbecile and not being merely dull or backward, is, by reason of (1) mental, or (2) physical, defect, incapable of receiving proper benefit from the instruction in an ordinary public elementary school, but is not incapable, by reason of such defect, of receiving benefit from instruction in a certified special class or school.

(b) For Epileptic Children.

I, A.B., a duly qualified practitioner, approved by the Education Department, certify that Y.Z., not being idiot or imbecile, is unfit, by reason of severe epilepsy, to attend an ordinary public elementary school.

(Note.—The causes which render an epileptic child unfit to attend an ordinary school may be either that serious danger to itself or to other children, or that serious disturbance to the work of the school, would be caused by such attendance.)

Power to provide for Education of Defective and Epileptic Children.

2.—(1.) Where a school authority have ascertained that there are in their district defective children, they may make provision for the education of such children by all or any of the following means :—

- (a) by classes in public elementary schools certified by the Education Department as special classes;¹ or
- (b) by boarding out, subject to the regulations of the Education Department, any such child in a house conveniently near to a certified special class or school;² or
- (c) by establishing schools, certified by the Education Department, for defective children.³

(2.) Where a school authority have ascertained that there are in their district epileptic children, they may make provision for the education of such children by establishing schools, certified by the Education Department, for epileptic children.⁴

(3.) The power conferred by this section shall include power to establish or acquire and to maintain certified schools, and to contribute, on such terms and to such extent as may be approved by the Education Department, towards the establishment, enlargement, or alteration, and towards the maintenance of certified schools.⁵

(4.) A school authority may in respect of children resident in or whose permanent home is in their district and attending certified special classes or schools in the district of another school authority, contribute to that other authority the proportionate cost of the provision and maintenance of such special classes or schools.⁶

(5.) The school authority, acting under this section, shall make provision for the examination from time to time of any child dealt with under this section, in order to ascertain whether such child has attained such a mental and physical condition as to be fit to attend the ordinary classes of public elementary schools; and the school authority shall make provision for such examination in the case of any child whose parent claims such examination of his child, provided that the parent shall not make such claim within less than six months after his child has been examined; and any school authority failing to make such provision as this subsection requires shall be deemed to have acted in contravention of this Act.

(6.) The Education Department shall not certify any establishment established after the commencement of this Act for boarding and lodging more than fifteen defective or epileptic children in one building or comprising more than four such buildings.⁷

¹ For the conditions and effect of the grant of a certificate by the Board of Education to a special class in a public elementary school, *see* Part I. of the Minute of 26th February 1900 (p. 698).

In the circular letter of March 1900, the Education Department wrote:—

‘The main conditions are that the children shall be admitted by the procedure described above; that they should be periodically examined by the medical officer (§2 (5)) of the Act; that they shall have a room of their own, suitably furnished and used exclusively by them, and a special teacher of their own; that they shall not be mixed with ordinary children for any lessons; that there shall be managers specially appointed and a special time-table; and that the principal teacher shall hold the certificate of the Education Department, or of the National Froebel Union, unless the class is for fewer than 10 children. Classes will be limited in size to an average attendance of 20, unless there are more than two classes, in which case the classes after the first two may consist of 30 children in average attendance. Not less than six hours a week of suitable manual instruction must be given to each child.

‘The rates of grant to classes or schools satisfying these conditions will be for instruction other than manual instruction 50s. for each child in average attendance, and for manual instruction 40s. per child in average attendance in the case of older children, and 30s. per child in average attendance in the case of younger children. These grants take the place of both the annual and the fee grants in public elementary schools.’

² For the regulations of the Board of Education as to boarding out defective children, *see* p. 703.

³ §14 of the Act provides that the expression ‘school’ includes any institution in which defective or epileptic children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified special class or school.

The Minute of 26th February 1900 (*see* p. 698) provides conditions under which the Board of Education are prepared to issue certificates under this subsection to two classes of schools. These are (i) Public elementary day schools, for which the conditions, specified by Part I. of the Minute, are the same as those for special classes in public elementary schools; and (ii) Certified schools for boarding and lodging defective children, for which the conditions are specified in Part II. of the Minute. With regard to the latter the Education Department wrote in the circular letter of March 1900:—

‘The Act (§2 (6)) limits the size of boarding institutions established after the commencement of the Act (9th August 1899) to 15 children in one building, and the number of buildings which may be comprised in an establishment is limited to four. No grant will be given by the Department for the maintenance of the children, but the grants for education will be the same, and will be given on the same conditions, as those offered for day schools and classes.’

The Minute of 26th February 1900 is made under the provisions of §7 of this Act (*see* note to that section), and no aid from the parliamentary grant can be given to any school certified, in respect of education given to defective or epileptic children, which does not fulfil the conditions of the Minute. But the Board of Education are not debarred from issuing certificates under the present section to other schools.

⁴ In the circular letter of March 1900, the Education Department wrote:—

‘The schools which will be certified by the Department under this Act for epileptic children will be small boarding schools, where proper provision is made for the medical attendance as well as the education of such children. A child who suffers from only

'mild epilepsy can attend an ordinary school, or, if he happens to be also defective, a special class for defective children. It is only the children whose epilepsy is so severe as to prevent them from attending day schools for whom this Act makes special provision. A school authority may either itself establish certified schools for epileptic children, or may contribute, on terms approved by the Education Department, to such schools (§2 (2), (3)). The regulations applicable to certified schools for epileptic children will be found in Part III. of the Minute of 26th February 1900. No grant will be made by the Department towards the maintenance of epileptic children, but the grants for education will be for instruction other than manual instruction, 50s. per head of average attendance, and 40s. and 30s. for manual instruction of older and younger children respectively. These grants take the place of both the annual and the fee grants in public elementary schools. The Act (§4 (2)) empowers a school authority to send an epileptic child to such an establishment without the consent of its parent, and, in such a case, an order of a court of summary jurisdiction will be necessary.'

The Minute of 26th February 1900 referred to will be found on pp. 698 *et seqq.*

⁵ With regard to the nature of the expenses to which the sanction of the Board of Education is required under this sub-section, see note 5 to the Elementary Education (Blind and Deaf Children) Act, 1893, §2 (p. 677).

It would appear from sub-section (4) of the present section that no sanction of the Board of Education is required to contributions in respect of children sent by one school authority under the Act to special classes and schools provided and maintained by another such school authority.

⁶ See note to §2 (3), also §§9, 10, and notes thereto.

As to the meaning of the expression 'resident,' see §14 of this Act, and note 2 to §2 of the Elementary Education (Blind and Deaf Children) Act, 1893 (p. 676).

⁷ In the Annual Report of the Board of Education for the year 1901 to 1902 the Board express their regret that no provision has yet been made for schools for epileptic children under this Act. In the Report for the previous year the Board had stated that the restrictions of §2 (6) of the Act had continued to prove an obstacle in the way of such schools becoming certified.

Provision of Guides or Conveyances.

3. A school authority may provide guides or conveyances for children who, in the opinion of the school authority, are by reason of any physical or mental defect unable to attend school without guides or conveyances.¹

¹ This section refers to children who *in the opinion of the school authority* are prevented from attending school by reason of any physical or mental defect. It does not appear to be necessary that a school authority, in order to incur expenditure under this section, should have previously made arrangements for the examination of defective children, as provided in §1.

See also note 3 to §1, *supra*.

Obligation of Parent as to Defective and Epileptic Children.

4.—(1) The duty of a parent¹ under section four of the Elementary Education Act, 1876,² to provide elementary instruction for his child shall, in the case of a defective or epileptic child over seven years of age in any place where a certified special class or school is within reach of the child's residence, include the duty to cause the child to attend such a class or school, and a parent shall not be excused from this duty by reason only that a guide or conveyance for the child is necessary.

(2) In the case of an epileptic child whose age exceeds seven years, the school authority may, if they think fit, apply to a court of summary jurisdiction

for an order requiring the child to be sent to a certified school for epileptics, and if any parent fails to comply with the order, he shall be deemed to have failed to perform the duty prescribed by section four of the Elementary Education Act, 1876, and may be proceeded against accordingly.

¹ As to the meaning of 'parent,' see §3 of the Elementary Education Act, 1870, and the note thereon (p. 196).

² For the general duty of a parent under §4 of the Elementary Education Act, 1876, see p. 279. With regard to the attendance at school, in an area in which the Act has been adopted, of children suffering from some defect or from epilepsy who are between five and seven years of age, it may be observed that children are not as a rule examined for the purposes of the Act till they have reached the latter age (see §1, and note 3 thereon, *supra*). Till this examination has taken place they cannot be regarded as 'defective' or 'epileptic' within the meaning of the Act, and the question whether the attendance of such a child at school should be enforced under the byelaws depends on whether its defect or epilepsy is such that it would probably be held to be a reasonable excuse for non-attendance. The same consideration would apply, in an area in which the Act has not been adopted, to children over seven suffering from some defect or from epilepsy.

Section 11 of this Act provides, that for the purposes of the Elementary Education Acts, 1870 to 1893, and of this Act, a defective or epileptic boy or girl shall be deemed to be a child until the age of sixteen years, and the period of compulsory education shall, in the case of such a child, extend to the age of sixteen years (see the note to that section, p. 696.) In areas, therefore, in which the Act has been adopted, the ordinary provisions of the Elementary Education Acts, 1870 to 1900, as extended by this Act, apply to the attendance at school of defective and epileptic children between the ages of seven and sixteen years; and further, in the case of such children, the attendance, in places where a certified special class or school is within reach of the child's residence, is required to be at such a special class or school; and such attendance may be enforced as if it were required by byelaws made under the Acts (see the note to §74 of the Elementary Education Act, 1870, p. 248).

Conditions and Effect of Grant of Certificate to School for Defective or Epileptic Children.

5. The provisions of section seven of the Elementary Education (Blind and Deaf Children) Act, 1893,¹ respecting the conditions and effect of the grant of certificates to schools for blind or deaf children shall apply, with the necessary modifications to schools for defective or epileptic children established or proposed to be established under this Act, except that no requirement need be made as to the proportion of the expenses to be defrayed out of private sources.

¹ See §7 of the Elementary Education (Blind and Deaf Children) Act, 1893, and notes thereto (p. 679). It is to be observed that such schools and classes for defective children as are certified under Part I. of the Minute of 26th February 1900 (p. 698), are, except as regards the special conditions required by the Minute, and the special grants made for them, 'subject to the ordinary requirements of the Day School Code' for public elementary schools.

Powers and Expenses of School Authority.

6. The provisions of section five of the Elementary Education (Blind and Deaf Children) Act, 1893 (relating to the powers and expenses of a school authority under that Act), shall apply, with the necessary modifications, to school authorities acting under this Act.¹

Provided that a parish in which there is a school board shall be exempt from contributing to the expenses incurred by any district council acting as a school authority under this Act, and where a school authority are an urban district council their expenses as such authority shall be paid out of the fund to be raised in the area for which they are a school authority in the same manner as the fund out of which their general expenses are payable is raised in the urban district.

¹ See Elementary Education (Blind and Deaf Children) Act, 1893, §5, and notes thereto (p. 678). The proviso of the present section is repealed by the Education Act, 1902.

Grants from Public Money towards Education of Defective and Epileptic Children.

7. Nothing in any Act of Parliament shall prevent the Education Department from giving aid from the parliamentary grant to a school in respect of education given to defective or epileptic children to such amount and on such conditions as may be directed by or in pursuance of the minutes of the Education Department in force for the time being.¹

¹ This section renders inoperative, so far as schools for defective and epileptic children are concerned, the provisions of §96 of the Elementary Education Act, 1870, which enacted that after the 31st March, 1871, no parliamentary grant was to be made to any elementary school which was not a public elementary school within the meaning of that Act.

For the Minute of 26th February 1900, providing for grants on account of the education of defective and epileptic children, see p. 698.

Contribution by Parent.

8.—(1) The parent of a defective or epileptic child shall be liable to contribute towards the expenses of the child incurred by a school authority under this Act in like manner and to the like extent as the parent of a blind or deaf child is liable to contribute under section nine of the Elementary Education (Blind and Deaf Children) Act, 1893, and the provisions of that section shall apply accordingly.¹

(2) The parent of a defective or epileptic child shall not, by reason of any payment made under this Act in respect of the child, be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

(3) Payments under this Act shall not be made on condition of a child attending any certified school other than such as may be reasonably selected by the parent, nor refused because the child attends or does not attend any particular certified school.

¹ See Elementary Education (Blind and Deaf Children) Act, 1893, §9, and notes thereto (p. 682). In the circular letter of March 1900, the Education Department wrote :—

‘No fee can be charged to the parent for the instruction given in any special class or school under this Act; but the school authority may obtain payment (§8) from the parent towards the cost of guides, conveyances, or maintenance in a boarding school, in the same manner as such payments are obtained in respect of blind and deaf children.’

Contribution by Guardians of the Poor.

9. The board of guardians of any poor law union may contribute such of the expenses of providing, enlarging, or maintaining any certified special class or

school under this Act as are certified by the Education Department to have been incurred wholly or partly in respect of scholars taught at the class or school who are either resident in a workhouse or in an institution to which they have been sent by the guardians from a workhouse or boarded out by the guardians.¹

¹ Under §2 of the Elementary Education Act, 1900, boards of guardians are now empowered to contribute to the expenses of public elementary schools incurred in respect of children chargeable to them. The present section enables them also to contribute to schools certified under this Act, which are not public elementary schools.

Limitation on Liability of School Authority.

10. Nothing in this Act shall be construed as imposing a duty on a school authority to receive in a special class or school established by them any child—

(a) who is resident in, or whose permanent home in their opinion is in, the district of another school authority; or

(b) who is resident in a workhouse, or in any institution to which he has been sent by the guardians, from a workhouse, or boarded out by the guardians,

unless that other school authority or, as the case may be, the guardians are willing to contribute towards the expenses of the education and maintenance of the child such sum as may be agreed on between the authorities concerned.¹

¹ In the circular letter of March 1900 the Education Department wrote:—

‘The Act being permissive as regards the provision to be made by the school authorities, it has been necessary to provide against the possible case of an influx of defective or epileptic children from districts which do not make provision for them into districts which do. Accordingly, where children wish to attend a special class or school situated in a district in which they are not resident, or in which they have not their permanent home, the school authority of such a district is under no obligation to admit them, unless the school authority of the district from which the children come is willing to contribute an agreed sum towards the cost of the special class or school; and similar provisions are made to meet the case of children for whom Poor Law Guardians are properly responsible, and who are sent to special classes or schools established under this Act (§§ 2 (4), 9, and 10).’

Period of Education for Defective and Epileptic Children.

11. For the purposes of the Elementary Education Acts, 1870 to 1893, and of this Act, a defective or epileptic boy or girl shall be deemed to be a child until the age of sixteen years, and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school may be enforced as if it were required by bye-laws made under the Elementary Education Acts, 1870 to 1893, and any such child shall not, in accordance with such bye-laws, be entitled to total or partial exemption from the obligation to attend school.¹

¹ See Elementary Education Act (Blind and Deaf Children), 1893, §11, and note thereto (p. 682). It will, however, be noticed that the period of compulsory education in the case of defective and epileptic children, in any place where a certified special class or school is within reach of the child's residence, begins at the age of seven (§4 (1) of this Act), as in the case of deaf children, and not at the age of five.

Religious Instruction.

12. The provisions regulating religious instruction in certified schools for defective and epileptic children shall be the same as those enacted by section eight of the Elementary Education (Blind and Deaf Children) Act, 1893.¹

¹ See Elementary Education Act (Blind and Deaf Children), 1893, §8, and notes thereto (p. 681).

Report to Parliament.

13. Every school authority shall make to the Education Department such returns as the Department may require ; and the Department shall annually lay before both Houses of Parliament a report of their proceedings under this Act during the preceding year, and in that report shall give lists of the schools and classes to which they have granted or refused certificates under this Act during the year, with their reasons for each such refusal.

Interpretation of Terms.

14. In this Act—

The expression 'school' includes any institution in which defective or epileptic children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified special class or school :

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education (Blind and Deaf Children) Act, 1893.¹

¹ See Elementary Education Act (Blind and Deaf Children), 1893, §15 (p. 683).

Short Title.

15. This Act may be cited as the Elementary Education (Defective and Epileptic Children) Act, 1899, and may be cited with the Elementary Education Acts, 1870 to 1893.

MINUTE OF THE COMMITTEE OF COUNCIL ON EDUCATION, DATED 26TH
FEBRUARY 1900, PROVIDING FOR GRANTS ON ACCOUNT OF THE
EDUCATION OF DEFECTIVE AND EPILEPTIC CHILDREN AND PRESCRIB-
ING CONDITIONS TO BE FULFILLED BY CERTIFIED SCHOOLS FOR SUCH
CHILDREN.

AT THE COUNCIL CHAMBER, WHITEHALL,

The 26th day of February 1900.

BY THE LORDS OF HER MAJESTY'S MOST HONOURABLE
PRIVY COUNCIL ON EDUCATION.

Their Lordships having had under consideration the Elementary Education (Defective and Epileptic Children) Act, 1899, read and approved the following Minute :—

I.—DAY SCHOOLS AND CLASSES.

Day Schools or classes for defective children are public elementary schools or classes attached to public elementary schools, differing only from ordinary public elementary schools in the special conditions hereinafter required and the special grants made for them. In other respects they are subject to the ordinary requirements of the Day School Code. Schools or classes for defective children are called 'special' schools or classes.

Her Majesty's Inspector will inspect special schools and classes in the ordinary course. He will pay his visits without notice, and will satisfy himself that all the conditions of the grant are fulfilled. In no case will he hold a formal examination. The Department reserves the power to inspect schools or classes by means of any officers whom it may appoint for the purpose.

The following conditions must be fulfilled by schools or classes that are certified as special schools or classes ;—

(1.) The premises must be approved by the Department.

In the case of new premises—

- (a) 20 square feet of floor space per child in average attendance must be provided in the class-rooms.
- (b) All playgrounds, offices, lavatories, entrances, and passages must be so constructed as to admit of easy supervision by the teacher of the special class, and must, as a rule, be kept for the sole use of the children attending the special class.
- (c) All rooms must, as a rule, be constructed on the ground floor.
- (d) Where the premises are intended for the use of more than one class, they must, as a rule, include a wide and well-lighted corridor, which can be used for drill and assembling.
- (e) Each child must, as a rule, be provided with a single desk of suitable size, and sloped at an angle of from 10 to 15 degrees.

The approval of premises, which have already been approved as suitable for special schools or classes, will be continued provided that conditions (a) and (b) be satisfied.

(2.) No children may be admitted, except those who have been ascertained to be defective within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899, under arrangements approved by the Education Department. No child may be admitted at less than seven years of age, or retained after reaching the age of sixteen.

(3.) Proper records must be made at the time of admission and afterwards—

(a) As to the child's capacity, habits, attainments, and health ;

(b) As to the family history of the child ;

(c) As to the progress of the child in the special school or class.

(4.) The children must, from time to time, be inspected by a medical officer appointed for the purpose by the school authority, and records of such inspections must be kept. Provision must be made for the examination, from time to time, of every child, in order to ascertain whether he has attained such a mental and physical condition as to be fit to attend an ordinary class in a public elementary school, and the school authority shall make provision for such examination in the case of any child whose parent claims such examination of his child, provided that the parent shall not make such claim within less than six months after his child has been examined. The decision of the Education Department is final as to whether a child may be retained in a special school or class as defective.

(5.) Every special school or class must have managers specially appointed, who will undertake to visit the school or class from time to time during school hours.

(6.) The children must not for any lessons be mixed with the children of the ordinary public elementary schools.

(7.) Each class must have a separate teacher of its own.

(8.) The principal teacher must hold the certificate of the Education Department or of the National Froebel Union. When there are less than ten children on the roll the principal teacher may be one qualified under Article 50 of the Code.

As a rule, men will not be approved as teachers of special schools or classes.

(9.) Subject to the continued recognition of the uncertificated teachers at present employed, assistant teachers not certificated will only be recognised in places where there is more than one class, and where a certificated teacher is in charge as principal. Such assistants must be persons qualified under Article 50 of the Code, or holders of a certificate from the National Froebel Union. No one under the age of twenty-one will be recognised as a teacher in a special class.

(10.) Her Majesty's Inspector must annually approve of all the staff employed. The withholding of approval of a teacher as a special teacher of defective children will in no way affect the teacher's qualification for teaching in ordinary schools.

(11.) The number of children in average attendance may not exceed 20 for each class, except that, if the number of classes at a centre exceeds two, there may be an average attendance of 30 in each class after the first two.

(12.) Before any teacher is recognised as a principal teacher she must have at least six months' experience in a special school or class approved by the Department.

(13.) The hours during which a special school or class is open must not exceed two and a half in the morning and two in the afternoon. An interval of at least an hour and a half must be interposed between the morning and the afternoon meeting of the school or class.

The minimum time of attendance is attendance at secular instruction for an hour and a half ; time spent in recreation or registration must not be included in the minimum period of an hour and a half.

(14.) The time-table must provide for—

(a) Instruction in the elements of reading, writing, and arithmetic ;

(b) Singing and recitation ;

(c) Object lessons ;

(d) Drawing ;

(e) Needlework for girls ;

(f) Physical exercises ;

(g) Manual instruction.

(15.) As a rule, not less than six hours of manual instruction must be given weekly to every child. For the purposes of manual instruction the children must be classed

as 'younger children' and 'older children' respectively; this classification must not depend upon any fixed rule as to age, but must be so made as to assign to each child that form of manual instruction which is suitable to his skill and capacity. Forms of manual instruction approved by the Department as suitable (a) for younger children, (b) for older boys, (c) for older girls, are shown on the list appended to this Minute.¹ In the case of girls, time spent in needlework may, to the extent of two hours per week, be counted as part of the maximum six hours of manual instruction. Other forms of manual instruction which the managers consider suitable for either the younger or the older children may be submitted to the Department for approval. With the approval of the inspector, manual instruction may be given elsewhere than on the premises of the special school or class, but in no case may the children be taught together with children attending an ordinary public elementary school. No class for the manual instruction of older children may, as a rule, contain more than ten children present at any one time.

(16.) Where the above conditions are satisfied, grants will be paid annually at the following rates for each unit of average attendance:—

For instruction other than manual instruction, 50s.

For manual instruction of younger children, 30s., and older children, 40s.

For each complete tenth of a unit of average attendance a tenth of the above grants will be paid.

These grants are in lieu of the annual grant and the fee grant payable to ordinary public elementary schools.

II. CERTIFIED SCHOOLS FOR BOARDING AND LODGING DEFECTIVE CHILDREN.

The following conditions must be fulfilled by schools that are certified for boarding and lodging defective children:—

(1.) The schools must be exclusively confined to children who are ascertained to be defective within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899 (Section 1).

(2.) No establishment established after the commencement of the Elementary Education (Defective and Epileptic Children) Act (9th August 1899) can be certified for boarding and lodging more than 15 defective children in one building, or comprising more than four such buildings (Section 2 (6)).

(3.) The premises must be approved by the Department.

The following rules should be observed in connection with the general rules laid down in Schedule VII. of the Day School Code²:—

(a) *Recreation Grounds.*

The superficial area of the uncovered ground should be not less than 30 square feet per child. The recreation grounds for girls and boys should be separate. There should be a covered gymnasium, or large shed open on one side, provided with ample top light and ventilation. Under supervision this may be used by boys and girls together.

(b) *Schoolrooms.*

The area should be not less than 20 square feet per child, and the cubic contents should be not less than 240 cubic feet. The position should be on

¹ The following is the list referred to:—

(a) Suitable for younger children—Paper-mat making, clay-modelling, macramé-work and various other forms of string work, pricking, colouring, and kinder-garten sewing, basket-making, paper-folding, bead-threading, paper-cutting and mounting, building with cubes, worsted-work, needlework.

(b) Suitable for older boys—Wood-work of various kinds, shoe-making, basket-making, modelling in pasteboard (the German *pappe-werk*), chair-caning, mat-making, tailoring, gardening and farm-work.

(c) Suitable for older girls—Cookery, laundry-work, practical housewifery, needlework.

N.B.—Out of the minimum six hours per week of manual instruction not more than two hours may be devoted to needlework.

² These rules are now issued as a separate publication, and not as a Schedule to the Day School Code (see p. 627).

the ground floor, near the playground. The exits for the sexes should be separate. Each desk should be for one child only.

(c) *Play Rooms.*

These should be of at least the same size as the schoolrooms.

(d) *Dining Rooms.*

These should be of sufficient size to seat each child comfortably, with space for the passage of waiters. The minimum area is 10 square feet per child.

(e) *Dormitories.*

The minimum width should be 18 feet, the minimum area should be 50 square feet per child, and the minimum cubic capacity 500 cubic feet per child. A separate bed must be provided for each child, with sufficient space between the beds.

A dormitory should be supervised by means of a window in the bedroom of the officer in charge. In houses, or homes, having small bedrooms, the officer's bedroom should be closely adjoining on the same floor, and the doors of the bedrooms left wide open at nights.

No boys over nine years of age should be lodged with girls, unless in a distinct wing approached by a separate staircase.

Boys under nine years of age may be housed in the same buildings with girls, but must have separate dormitories.

Each teacher should have a separate bedroom.

(f) *Sick Rooms.*

These should be separate for each sex, and should consist of two rooms at least in each case, viz., one for the patients and the other for the nurse. An aspect S.E., S., or S.W. is to be preferred.

A detached building is also necessary for infectious cases, except in the neighbourhood of a hospital to which cases can be readily conveyed.

(g) *Baths.*

These should be supplied with hot and cold water, and should be of sufficient number to enable each child to obtain a bath at least once a week in winter and twice in summer. Lavatory basins should be sufficient to enable each child to wash the hands, face, and upper portion of the body morning and evening.

(h) *Latrines.*

For day.—The provision of closets should be 10 per cent. on the number of boys, together with a urinal; and 15 per cent. on the number of girls, with facility for frequent supervision.

For night.—One or two closets should be provided adjoining the dormitories, but disconnected therefrom by a lobby having a current of air by windows on two sides.

(k) *Staircases and Corridors.*

These must be fireproof.

(l) *Fire Escapes.*

Where only one staircase exists, or where the dormitories are at some distance from the staircases, fire escapes should be provided.

(4.) No children may be admitted at less than seven years of age, or retained after reaching the age of 16.

(5.) The sexes should be separated, as a rule, for all purposes, except meals and lessons and recreation under supervision.

(6.) The staff of every certified school must be approved by the Education Department.

(7.) The schools must be at all times open to the officers of the Education Department or of the school authorities by whom the children are sent.

(8.) The accounts must be audited by a professional auditor, and submitted to the Department in such form as may be prescribed.

(9.) The provisions regulating religious instruction must be the same as those enacted by section eight of the Elementary Education (Blind and Deaf Children) Act, 1893.

(10.) Instruction must be given in accordance with the rules prescribed by the Education Department for day schools and classes for defective children.

(11.) Where the above conditions are satisfied, grants will be paid annually at the following rates for each unit of average attendance :—

For instruction other than manual instruction, 50s.

For manual instruction of younger children, 30s. ; and older children, 40s.

For each complete tenth of a unit of average attendance a tenth of the above grants will be paid.

These grants are in lieu of the annual grant and the fee grant payable to ordinary public elementary schools.

III.—CERTIFIED SCHOOLS FOR EPILEPTIC CHILDREN.

The following conditions must be fulfilled by schools that are certified for epileptic children :—

(1.) The schools must provide for the boarding, lodging, and medical treatment of the children as well as for their education. They must be exclusively confined to children who are epileptic within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899.

(2.) No establishment established after the commencement of the Elementary Education (Defective and Epileptic Children) Act (9th August 1899) can be certified for boarding and lodging more than 15 epileptic children in one building, or comprising more than four such buildings (Section 2 (6) of the Act).

(3.) The premises must be approved by the Department. They should, if possible, be built all on one floor, so as to avoid the use of staircases. It is necessary that they should be situated in the country, or on a good pervious soil.

In other respects the rules laid down for the premises of certified schools for boarding and lodging defective children apply to the premises of certified schools for epileptic children.

(4.) No children may be admitted at less than seven years of age, or retained after reaching the age of 16.

(5.) The sexes should be separated, as a rule, for all purposes, except meals and lessons and recreation under supervision.

(6.) The staff of every certified school must be approved by the Education Department.

(7.) The schools must be at all times open to the officers of the Education Department or of the school authorities by whom the children are sent.

(8.) The accounts must be audited by a professional auditor, and submitted to the Department in such form as may be prescribed.

(9.) The provisions regulating religious instruction must be the same as those enacted by §8 of the Elementary Education (Blind and Deaf Children) Act, 1893.

(10.) The school instruction should as nearly as possible resemble that given in an ordinary elementary school.

(11.) Not less than six hours of manual instruction must be given weekly to each child. It should have for its object—(1), to train the hand and eye and brain ; (2), to fit a child to earn a living ; and it should be chosen with a view of improving the health of the children. More highly skilled forms of manual instruction than those provided for defective children may be suitable for epileptic children ; and it will be necessary to guard against dangerous tools or machinery. The forms of manual training proposed should be submitted to the Department for approval. For purposes of manual instruction children must be classed as 'younger children' and 'older children' respectively. This classification must not depend upon any fixed rule as to

age, but must be made so as to assign to each child that form of manual instruction which is suitable to his skill and capacity.

(12.) Where the above conditions are satisfied, grants will be paid annually at the following rates for each unit of average attendance :—

For instruction other than manual instruction, 50s.

For manual instruction of younger children, 30s.; and older children, 40s.

For each tenth of a unit of average attendance a tenth of the above grants will be paid.

These grants are in lieu of the annual grant and the fee grant payable to ordinary public elementary schools.

REGULATIONS AS TO BOARDING-OUT DEFECTIVE CHILDREN.

(Elementary Education (Defective and Epileptic Children) Act, 1899, §2 (1).)

At the Council Chamber, Whitehall, the 26th day of February, 1900.

By the Lords of the Committee of Her Majesty's Most Honourable Privy Council on Education.

The Lords of the Committee of Privy Council on Education, by virtue and in pursuance of the powers in them vested under the Elementary Education (Defective and Epileptic Children) Act, 1899, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following regulations be observed :—

1. A school authority may, subject to the provisions of these regulations, board out defective children resident in their district in homes conveniently near to a school for the time being certified by the Education Department as suitable for providing elementary education for such children, under arrangements approved by the Education Department with a boarding-out committee, constituted as hereinafter mentioned.

2. A boarding-out committee shall consist of three or more persons, to be approved by the Education Department, who shall have signed an engagement in the form annexed to this Order (Schedule I.).

3. Any person deriving any pecuniary or other personal profit from the boarding out of any child shall be thereby disqualified from becoming or continuing to be a member of any such boarding-out committee.

4. The boarding-out committee shall from time to time appoint one of their members to act as secretary; and it shall be the duty of the secretary punctually to inform the Education Department of any vacancies which may be caused by death, resignation, or otherwise, amongst the members of the committee, and to submit the names of the persons proposed to fill the vacancies.

5. A child may be withdrawn from a home by its parent or by the school authority of the district from which the child is sent, notice of the intention to do so being given at least one week beforehand to the boarding-out committee; and the foster-parent shall, upon the demand of a person duly authorised in writing by the boarding-out committee, or by the school authority, or by the parent, deliver up the child to such person.

6. The regulations to be observed by the school authority with respect to such boarding-out of defective children shall be as follows :—

(1.) No child shall be boarded-out without the parent's consent.

(2.) Except in the case of brothers or sisters there shall not be more than one defective child resident in the same home at the same time, whether boarded-out or not.

(3.) No child shall be boarded-out in a home in which, at the time when the child would first be placed in it, there would be with such child more than four children resident, or in which any poor law child is boarded-out by the guardians.

- (4.) No child shall be boarded-out with any person who is at the time, or who has been within twelve months preceding, in receipt of relief; and if the foster-parent shall at any time become in receipt of relief, any child boarded-out with him shall be withdrawn from him.
- (5.) The school authority shall, if possible, arrange for the boarding-out being with a person belonging to the religious persuasion of the child's parent. (§12 of the Act.)
- (6.) No child shall be boarded-out without a certificate, in the form annexed to this Order (Schedule II.), signed by a duly qualified medical practitioner, stating the particulars of the child's health, such certificate to be forwarded by the school authority to the boarding-out committee.
- (7.) Before receiving any child to be boarded-out with him, the foster-parent shall sign an undertaking in duplicate, which shall, in addition to any other matter which may be agreed upon, contain an engagement on the part of the foster-parent, that, in consideration of a certain sum per week, he will bring up the child as one of his own children, and provide the child with proper food, lodging, and washing, and endeavour to train the child in habits of truthfulness, obedience, personal cleanliness, and industry, as well as in such special industry or occupations as may be prescribed by the managers of the certified school which the child attends; that he will take care that the child shall attend duly at church or chapel according to the religious denomination to which the child belongs, and shall attend the particular certified school directed by the school authority according to the provisions of the law for the time being, and will make such provision as may be necessary for the escort of the child to and from church or chapel and school; that he will provide for the proper repair and renewal of the child's clothing, and that, in case of the child's illness, he will forthwith report such illness to the school authority, to the child's parent, and to the boarding-out committee; and that he will at all reasonable times permit the child to be visited by his parent, and will at all times permit the child to be visited, and the house to be inspected by any member of the boarding-out committee, and by any person specially appointed for that purpose by the school authority or by the Education Department. The undertaking shall also contain an engagement on the part of the foster-parent that he will, upon the demand of the child's parent or of a person duly authorised in writing by him or by the boarding-out committee, or by the school authority, give up possession of the child.

Such undertaking shall be made in triplicate according to the form annexed to this Order (Schedule III.). One copy of it shall be kept by the foster-parent, another by the school authority, and another by the child's parent.

- (8.) On the delivery of the child to the foster-parent an acknowledgment shall be given in the form hereinafter prescribed (Schedule IV.), or to the like effect.
 - (9.) In no case shall the sum to be paid to the foster-parent for the maintenance of a child, inclusive of lodging, but exclusive of clothing, school-fees, fees for medical attendance, medicines, and extras ordered by a medical attendant, be less than six or more than ten shillings per week.
 - (10.) Unless arrangements can be made for transit by some public conveyance, no child shall be boarded out in a home distant more than one mile from the certified school which the child attends.
 - (11.) The managers of the certified school shall undertake to receive the child and to send to the school authority at least once a quarter a written report upon the child, in the form annexed to this Order (Schedule V.).
 - (12.) No child shall be boarded-out in any home which is distant more than five miles by the nearest road of access from the residence of some member of the boarding-out committee.
7. Every boarded-out child shall be visited not less often than once in every month by a member of the boarding-out committee at the home of the foster-parent, and the visitor shall thereupon make a report in writing to the committee, mentioning

the apparent bodily condition and the behaviour of such child, and the state of the home, and all reasonable complaints made by the child or the foster-parent.

These reports shall be forwarded by the boarding-out committee to the school authority and to the child's parent not less often than quarterly.

If in the case of any boarded-out child no such report shall be received by the school authority or the parent for the space of four consecutive months, the school authority shall in default of satisfactory explanation withdraw the child from the home with all reasonable expedition.

8. (1.) The clerk to the school authority shall, as soon as practicable after the first day of April and the first day of October in every year, make a return to the Education Department in the form annexed to this Order (Schedule VI.), of the several children remaining so boarded-out on those dates respectively.

(2.) The secretary to the boarding-out committee shall make a return to the Education Department as soon as practicable after the first day of January and the first day of July in every year of the several children remaining boarded-out under the supervision of the committee on those days respectively under these regulations. Such return shall be made according to the prescribed form, Schedule VII. of this Order.

9. If the Education Department shall withdraw from any boarding-out committee the authority to enter into arrangements with school authorities, the school authorities who have made arrangements with the said committee for the boarding-out of children shall, on receiving notice of such withdrawal, provide with all reasonable expedition for the return of all children boarded-out in homes found by such committee to their own homes or for their transfer to homes found by another boarding-out committee. Provided that it shall not be necessary for the school authority to take back such children if the Education Department declare that the withdrawal of authority from the committee shall not apply to children already boarded-out under their superintendence.

10. Where the arrangements made by a school authority with any boarding-out committee under these regulations include the payment of any sums by such committee on behalf of the school authority, the school authority may, if they think fit, advance to the boarding-out committee quarterly a sum not exceeding three-fourths of the expenditure which, in the pursuance of such arrangements, may reasonably be expected to be incurred by such committee during the ensuing quarter.

11. In this Order—

The term 'foster-parent' means the persons or person with whom any child is boarded-out under the provisions of this Order.

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education (Defective and Epileptic Children) Act, 1899.

All words importing the masculine gender shall be deemed and taken to include females, and the singular to include the plural, and the plural the singular, unless the contrary as to gender or number is expressly provided.

G. W. KEKEWICH,
Secretary.

Note.—The Schedules contain the forms of engagements, certificates, and returns referred to in the foregoing regulations.

VOLUNTARY SCHOOLS ACT, 1897.

60 Victoria, Chap. 5.

AN ACT to provide for a Grant out of the Exchequer in Aid of Voluntary Elementary Schools, and for the Exemption from Rates of those Schools, and to repeal part of Section Nineteen of the Elementary Education Act, 1876.

[8th April 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Aid Grant to Voluntary Elementary Schools.

1.—(1.) *For aiding voluntary schools there shall be annually paid out of moneys provided by Parliament an aid grant, not exceeding in the aggregate five shillings per scholar for the whole number of scholars in those schools.*¹

(2.) *The aid grant shall be distributed by the Education Department to such voluntary schools, and in such manner and amounts, as the Department think best for the purpose of helping necessitous schools and increasing their efficiency, due regard being had to the maintenance of voluntary subscriptions.*²

(3.) *If associations of schools are constituted in such manner in such areas and with such governing bodies representative of the managers as are approved by the Education Department, there shall be allotted to each association while so approved,*³

(a) *a share of the aid grant to be computed according to the number of scholars in the schools of the association at the rate of five shillings per scholar, or, if the Department fix different rates for town and country schools respectively (which they are hereby empowered to do) then at those rates;*⁴ and

(b) *a corresponding share of any sum which may be available out of the aid grant after distribution has been made to unassociated schools.*

(4.) *The share so allotted to each such association shall be distributed as aforesaid by the Education Department after consulting the governing body of the association, and in accordance with any scheme prepared by that body which the Department for the time being approve.*

(5.) *The Education Department may exclude a school from any share of the aid grant which it might otherwise receive, if, in the opinion of the Department,*

it unreasonably refuses or fails to join such an association, but the refusal or failure shall not be deemed unreasonable if the majority of the schools in the association belong to a religious denomination to which the school in question does not itself belong.

(6.) *The Education Department may require as a condition of a school receiving a share of the aid grant, that the accounts of the receipts and expenditure of the school shall be annually audited in accordance with the regulations of the Department.*

(7.) *The decision of the Education Department upon any question relating to the distribution or allotment of the aid grant, including the question whether an association is or is not in conformity with this Act, and whether a school is a town or a country school, shall be final.*⁵

¹ The whole of the first section of this Act is repealed by the Education Act, 1902, as from the appointed day under that Act. The local education authority will henceforward be required to maintain and keep efficient all public elementary schools within their area which are necessary; and all receipts in respect of any school so maintained, including any Parliamentary grant, but excluding sums specially applicable for purposes for which provision is to be made by the managers, are to be paid to that authority. That Act further provides (§10) for the payment to local education authorities of a new Parliamentary grant, called an aid grant, in lieu of the grants under the Voluntary Schools Act, 1897, and under §97 of the Elementary Education Act, 1870, as amended by the Elementary Education Act, 1897. See the notes to §10 of the Education Act, 1902, p. 74.

In a circular, dated 31st March, 1903, addressed to the governing bodies of voluntary school associations (see note 3, *infra*), the Board of Education state:—

‘By the provisions of the Education Act, 1902, no further aid grant under the Voluntary Schools Act will be payable in respect of any school for any period after the “appointed day”—i.e. the day on which the Act comes into force. That day may be different for the areas under the different local education authorities. The proportion of aid grant due, therefore, on account of any particular school will be one-twelfth of the full year’s amount for each month between April 1, 1903, and the appointed day for the district in which the school is situated. It follows that the total amount of aid grant which will be allotted to each association cannot be accurately calculated until the appointed day is finally settled for every district in which there is a school belonging to that association. . . . Meanwhile I am to request you to inform the Board of Education as soon as possible if it is the intention of your governing body to propose a scheme for the distribution of aid grant as in previous years, or to apply to the Board of Education for the grant to be paid direct to the governing body (Education Act, 1902, Schedule II., §12). In the latter case the application should be accompanied by a statement showing what arrangements will be made for the application of any sum so paid.’

The repeal of this section, and the substitution of the new aid grant under the Education Act, 1902, do not apply to London.

² The law officers of the Crown advised that: ‘in distributing the Aid Grant, the Department cannot legally make a payment for the purpose of extinguishing a debt incurred by the managers of a voluntary school prior to the passing of the Act in respect of the annual maintenance of the school. Such a payment would not be for the purpose of helping the school or increasing its efficiency, but for the purpose of relieving the individuals who had maintained the school in the past.’

³ Associations were very generally constituted as contemplated in this subsection, and the greater part of the administration of this section of the Act has been conducted by the Board of Education through the agency of these associations.

The following summary shows (a) under denominations the number of associations, the number of schools, their total average attendance, and the amount of aid grant paid; (b) the total number of unassociated schools, their total average attendance, and the amount of aid grant paid; (c) the total number of voluntary schools, their total average attendance, and the total amount of aid grant paid for the financial year ending 31st March 1902:—

	Number of Associations.	Number of Schools.	Average Attendance.	Total amount of Aid Grant paid
(a) Church of England,	46	11,809	1,292,653	£ 462,438 3 4
Roman Catholic,	11	1,047	258,968	72,094 12 4
British,	11	784	168,670	44,212 1 5
Wesleyan,	6	474	128,844	36,040 7 5
Jewish,	1	13	10,425	3,030 0 7
TOTALS,	75	14,127	2,454,500	617,815 8 1
(b) Unassociated Schools,	173	18,584	417 10 0
(c) GRAND TOTALS,	75	14,300	2,473,084	618,232 18 1

It is provided by §17 (3) (b) of the Education Act, 1902 (p. 107), that every scheme for the establishment of an education committee of the local education authority under that Act shall provide for the appointment by the Council, on the nomination or recommendation, where it appears desirable, of other bodies (including associations of voluntary schools), of persons of experience in education, and of persons acquainted with the needs of the various kinds of schools in the area for which the Council acts.

See also Schedule II. (12) of the Education Act, 1902, as to the payments of aid grant which may be made thereunder to the associations.

⁴ The Education Department fixed different rates for town and country schools respectively in the following minute:—

At the Council Chamber, Whitehall, the 16th day of June 1897.

By the Lords of the Committee of Her Majesty's Most Honourable Privy Council on Education.

The Lords of the Committee of Council on Education, having had under consideration the Voluntary Schools Act, 1897:—

Decided,—

A voluntary school, which on the first day of April in any year is situated within the district of the County Council of London, or within a county borough, municipal borough, or other urban district, shall be a town school for the purpose of any allotment of the aid grant under §1, (3) (a) of the Act during the year beginning the same 1st day of April, and any school not so situated shall be a country school for the same purpose.

Their Lordships further decided, in virtue of the powers vested in them by the said Act, that until the issue of any further minute in that behalf, the following rates be fixed for town and country schools respectively:—

For town schools the rate of 5s. 9d. per scholar.

For country schools the rate of 3s. 3d. per scholar.

The decision contained in the foregoing minute as to what schools were town schools and what schools were country schools, for the purposes of §1 (3) (a), was made in virtue of the powers conferred upon the Education Department by subsection (7).

⁵ See the note to §1 (3) (a).

Repeal of 17s. 6d. Limit in 39 & 40 Vict. c.79, §19, as respects Day Schools in England and Wales.

2. After the last day of March one thousand eight hundred and ninety-seven, the following words in section nineteen of the Elementary Education Act, 1876, namely, 'such grant shall not in any year be reduced by reason of its excess above the income of the school if the grant do not exceed the amount of seventeen shillings and sixpence per child in average attendance at the school during that year, but shall not exceed that amount per child except by the same sum by which the income of the school derived from voluntary contributions, rates, school fees, endowments, or any source whatever other than the Parliamentary grant, exceeds the said amount per child, and' shall be repealed so far as they apply to day schools in England and Wales.¹

¹ The abolition of the 'seventeen and sixpenny limit' effected by this section was not confined to voluntary schools. The limit was removed in the case of all day schools, whether provided, or not provided, by a school board, and in virtue of the provisions of §22 (1) and (2) of the Education Act, 1902 (p. 143), there cannot in the future be any public elementary evening schools.

Exemption from Rates of Voluntary Elementary Schools.

3. No person shall be assessed or rated to or for any local rate¹ in respect of any land or buildings used exclusively or mainly for the purposes of the schoolrooms, offices or playground of a voluntary school, except to the extent of any profit derived by the managers of the school from the letting thereof.²

¹ The expression 'local rate' is defined in §4, *infra*. See the note on that section.

² The Local Government Board issued a circular dated 10th June 1897, in which they called attention to the fact that the section does not necessarily exempt the entire school premises: it only exempts 'land or buildings used exclusively or mainly for the purposes of the schoolrooms, offices, or playgrounds,' and added that consequently any part of the premises used as a teacher's residence will not be exempt, but must be assessed and rated as heretofore.

The question whether caretakers' residences come within the exemption or not depends on the circumstances in each case. It appears from the minutes of a meeting of the Islington Vestry, held on the 17th December 1897, that the Justices at Petty Sessions had decided that caretakers' rooms in connection with voluntary schools are within the exemption as 'necessary offices,' and the Vestry resolved to accept this decision, which has, so far as is known, been followed elsewhere. On the other hand, Judge Greenhow decided, in a case of *Knottingley District Council v. Christie* in the Wakefield County Court, that when the caretaker lived in a separate building within the school precincts and received a lower salary in consideration of his occupation of the house and a garden attached, such building did not come within the word 'offices' and was not exempt.

As the salary of the caretaker will in future be provided by the local education authority as part of the maintenance of the school, such a reduction of salary will no longer be a profit derived by the managers of the school from the letting thereof, except to the extent of the sum, if any, which the local education authority may allow to the managers by way of rent for the premises. See notes 4 and 13 to Education Act, 1902, §7 (1), pp. 51 and 57.

The section is confined to voluntary schools, and voluntary school is by §4 defined to mean a public elementary day school not provided by a school board, and therefore by Schedule III. (1) of the Education Act, 1902, it will apply only to schools not provided by a local education authority.

Definitions.

4. In this Act, unless the context otherwise requires—

The expression 'voluntary school' means a public elementary day school not provided by a school board :

Any reference to the number of scholars in schools means the number of scholars in average attendance as computed by the Education Department :

The expression 'local rate' means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument requiring payment from some authority or officer, is or can be ultimately raised out of a local rate as before defined :¹

Other expressions have the same meaning as in the Elementary Education Acts, 1870 to 1893.

¹ The above definition of 'local rate' does not include the apportioned expenses of making up a road charged against the owners of a school pursuant to §150 of the Public Health Act, 1875, and such expenses can still be charged against the owners, i.e. against the trustees or managers, if within the definition of 'owner.' See *Bowditch v. Wakefield Local Board*, L. R., 6 Q. B. 567; *Hornsey District Council v. Smith*, 1897, 1 Ch. 843. As to the question whether the charge can be made effective against the school site, see note to §6 of the School Sites Act, 1841 (p. 540).

Charges made by local authorities for water supplied to schools, even though leviable on the basis of an assessment in respect of the yearly value of property, are not within the definition, as the Waterworks Clauses Acts treat a supply for 'public purposes' as distinct from a supply to particular premises, although such premises may be owned for a purpose of a public nature. Cf. *Liskeard Union v. Liskeard Waterworks*, 7 Q. B. D. 505.

Extent of Act and Short Title.

- 5.—(1.) This Act shall not extend to Scotland or Ireland.
 (2.) This Act may be cited as the Voluntary Schools Act, 1897.

ELEMENTARY EDUCATION ACT, 1897.

60 Victoria, Chap. 16.

AN ACT to amend Section Ninety-seven of the Elementary Education Act, 1870. [3rd June 1897.]

WHEREAS by section ninety-seven of the Elementary Education Act, 1870, it is enacted as follows:—

'Where the school board satisfy the Education Department that in any year ending the twenty-ninth of September the sum required for the purpose of the annual expenses of the school board of any school district, and actually paid to the treasurer of such board by the rating authority, amounted to a sum which would have been raised by a rate of threepence in the pound on the rateable value of such district, and any such rate would have produced less than twenty pounds, or less than seven shillings and sixpence per child of the number of children in average attendance at the public elementary schools provided by such school board, such school board shall be entitled, in addition to the annual Parliamentary grant in aid of the public elementary schools provided by them, to such further sum out of moneys provided by Parliament as, when added to the sum actually so paid by the rating authority, would, as the case may be, make up the sum of twenty pounds, or the sum of seven shillings and sixpence for each such child, but no attendance shall be reckoned for the purpose of calculating such average attendance unless it is an attendance as defined in the said minutes':

And whereas it is expedient to amend the said section:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Power to increase Grant under 33 & 34 Vict. c. 75, §97.

1.—(1.) *Section ninety-seven of the Elementary Education Act, 1870, shall have effect as if the sum of seven shillings and sixpence therein mentioned were increased by the sum of fourpence for every complete penny by which the school board rate for the year therein mentioned exceeded threepence. Provided that the said sum of seven shillings and sixpence shall not be thereby increased beyond a maximum of sixteen shillings and sixpence.*

(2.) *'School board rate' means the rate in the pound on the rateable value of the district which would have produced the sum required in the said year for the purpose of the annual expenses of the board, and actually paid in that year to the treasurer by the rating authority.*

(3.) *In calculating for the purpose of the said section ninety-seven and of*

this Act the annual expenses of a school board, the Education Department shall include such sum as is necessary for maintaining such working balance as the Education Department determine to be reasonable.

Commencement, Construction, and Short Title.

2. This Act shall from and after the twenty-ninth day of September, one thousand eight hundred and ninety-seven, be construed as part of section ninety-seven of the Elementary Education Act, 1870, and shall not extend to Scotland or Ireland, and may be cited as the Elementary Education Act, 1897.¹

¹ This Act, which provided for the payment to 'necessitous' school boards of a grant calculated on a sliding-scale, and varying, for different school board districts, with the burden of the school board rate, is wholly repealed by the Education Act, 1902, as from the appointed day under that Act.

That Act provides for the payment of a new Parliamentary grant, called an aid grant, in lieu of the grants under this Act and under the Voluntary Schools Act, 1897 (see the notes to §10 of the Education Act, 1902, p. 75).

With reference to the adjustments which will be necessary on account of any payments due under this Act but not made before the appointed day, see the note to Schedule II. (11) of the Education Act, 1902 (p. 169).

The repeal of this Act does not apply to London, but the rateable value and school board rate of London are not such as to bring it within the operation of the Act.

THE ELEMENTARY SCHOOL TEACHERS (SUPERANNUATION) ACT, 1898.*

61 & 62 Victoria, Chap. 57.

AN ACT to provide for Superannuation and other Annuities and Allowances to Elementary School Teachers certificated by the Education Department. [12th August 1898.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Elementary School Teachers certificated after commencement of the Act.

- 1.—(1.) A teacher certificated¹ after the commencement of this Act² shall not be recognised by the Education Department as a certificated teacher until the Department are satisfied in the prescribed³ manner of his physical capacity.⁴
- (2.) In the case of a teacher who becomes a certificated teacher after the commencement of this Act, the following provisions shall, subject to rules under this Act, apply :—
 - (a) His certificate shall expire on his attaining the age of sixty-five years, or if the Education Department, on account of his special fitness, allow his service to continue for a further limited time, then on the expiration of that limited time ;⁵
 - (b) The teacher shall, while serving in recorded service,⁶ contribute⁷ to the deferred annuity fund under this Act at the rate, if a man, of three pounds, and if a woman, of two pounds, a year, or at such increased rate as may for the time being be fixed by the Treasury in accordance with this Act ;
 - (c) On his attaining the age of sixty-five years, or on any later date at which this certificate expires, he shall be entitled, out of the deferred annuity fund, to such annuity for the

* The Statutory Rules made under this Act, the Annuity Tables, and the official 'Explanatory Memorandum' of the nature and scope of the chief provisions of the Act, are printed on pp. 723, 732, and 735, respectively, and should be referred to throughout. The Board of Education state that they cannot undertake to inform individual teachers what allowance they may become entitled to under the Act, before the claim for such allowance is submitted for formal consideration, the Act and the 'Explanatory Memorandum' furnishing the material for calculating such allowance under any given circumstances.

remainder of his life in respect of his contributions to that fund as may be fixed by the tables under this Act, but he shall not be entitled to any return of contributions or to any benefits in respect of his contributions other than that annuity;

- (d) On his attaining the age of sixty-five years, or on any later date at which his certificate expires, if he has contributed to the deferred annuity fund in accordance with this Act, and his years of recorded service are not less than half the number of years which have elapsed since he became certificated, the Treasury may grant to him, out of moneys provided by Parliament, an annual superannuation allowance calculated at the rate of ten shillings for each complete year of recorded service.⁸
- (3.) If at any time the Education Department find that the average salaries of the certificated teachers calculated in the prescribed manner⁹ exceed by ten per cent., in the case of men one hundred and nineteen pounds thirteen shillings and threepence, or in the case of women seventy-six pounds eleven shillings and ninepence per annum, they shall certify accordingly to the Treasury, and the Treasury may by warrant, in the case of either sex, increase the rate of contribution to the deferred annuity fund under this Act by an amount not exceeding five shillings a year for each full ten per cent. of the excess.¹⁰
- (4.) Any such certificate may be given and warrant made from time to time, and if in any year the Education Department consider that the average emoluments have been so reduced as no longer to justify any increase of contribution made by any such warrant, they may certify the same to the Treasury, and the Treasury may cancel their warrant accordingly.
- (5.) 'Recorded Service'¹¹ for the purposes of this Act shall be such service in the capacity of certificated teacher in a public elementary school, not being an evening school, as is recorded by the Education Department, and may include such service as is so recorded in the capacity, within the meaning of the Education Code, either of a teacher in a training college, or of organising teacher, or of teacher of a central class for pupil teachers, or in such other capacity in or connected with public elementary schools as may be for the time being prescribed, or in the capacity of a certificated teacher in a certified reformatory or industrial school; but no service after the teacher attains the age of sixty-five years shall be recorded service for the purpose either of contribution to the deferred annuity fund, or of determining the amount of any allowance under this Act.

¹ The expression 'certificated teacher' is defined in §11, p. 720.

² The commencement of the Act was the 1st April 1899. See the note to §14, p. 722.

³ The expression 'prescribed,' which occurs frequently throughout the Act, means prescribed by rules made under this Act. The Elementary School Teachers (Superannuation) Rules, 1899 (referred to, throughout the notes to this Act, as 'the Rules'), which were made by the Treasury and the Education Department under §6 of the Act, are printed on p. 723 *et seq.*

⁴ For the evidence of physical capacity required by the Rules, *see* Rule 6, p. 724.

The Rules prescribe that evidence of age will be required, as well as evidence of physical capacity (Rule 7, p. 724).

⁵ This provision is repeated as Article 67* of the Day School Code, p. 580.

The Board of Education state that an application for an extension of the teacher's recognition under this clause should be addressed to the Board through the managers of the school in which the teacher is employed. The extension, if allowed, is, like the corresponding extension under Article 130 (11) of the Code (p. 599), only allowed as a rule for periods not exceeding one year at a time.

⁶ *See* subsection (5) *infra*, and Rule 9, p. 724, for the meaning of the expression 'recorded service.' It is upon the length of a teacher's 'recorded service' that all the benefits of the Act depend.

It will be observed that teachers certificated after the commencement of the Act *must* contribute to the deferred annuity fund, while serving in recorded service. They *may* also contribute to the fund in respect of intervals between employments in recorded service, subject to the provisions of Rule 13, p. 726.

⁷ As to the establishment of the deferred annuity fund, *see* §3, p. 716; as to the annuity tables, *see* §4, and the tables given on pp. 733 and 734; and as to the increased rate of contribution which may be fixed, *see* subsection (3) of this section, and the note thereon.

⁸ The superannuation allowance under this clause is in addition to the annuity payable under clause (c). *See* Explanatory Memorandum, p. 735.

⁹ For the manner in which average salaries are to be calculated, *see* Rule 8, p. 724.

¹⁰ The Treasury issued a warrant under this subsection, dated the 26th December 1900, in which it is provided, after a recital of the fulfilment of the conditions of the subsection, that 'from and after the first day of April, 1901, the rate of contribution 'to the Deferred Annuity Fund under the aforesaid Act shall in the case of women 'teachers in England and Wales, be increased from Two Pounds a year to Two Pounds 'Four Shillings a year, with (of course) a corresponding increase in such annuities as 'may be ultimately payable to the teachers out of the fund.' The Board of Education issued a circular letter calling attention to the terms of this warrant, and stating that, in accordance therewith, they would 'in collecting the contributions of women teachers, 'calculate them at the rate of two pounds four shillings a year in respect of recorded 'service from and after 1st April, 1901, the effect of which would be that the contribu- 'tions of women will, from 1st April, 1901, be three shillings and eightpence per 'month instead of three shillings and fourpence as hitherto, and that the annuities 'ultimately payable under §1 (2) (c) of the Act will be correspondingly increased.'

¹¹ For the meanings which are attached to the expression 'recorded service,' other than the meaning given to it in the first four lines of this subsection, *see* Rule 9 (1) and (2) p. 724.

It was recently stated on behalf of the Government in reply to a question in the House of Commons that 'recorded service' for the purposes of this Act (the provisions of which the Government had no intention of extending) does not include service in technical or secondary schools, but that teachers transferred to such schools do not lose the benefit of the contributions which they have already made while serving in 'recorded service.'

Service, however, in the capacity of a teacher in a central class of pupil-teachers (*see* Article 36 of the Code, p. 575, and note 7 to §22 (2) of the Education Act, 1902) may be reckoned as 'recorded service.'

Allowances to Incapacitated Teachers.

2.—(1.) Where¹ a teacher satisfies the Treasury in the prescribed² manner that he—

(a.) has served a number of years of recorded service not less

than ten and not less than half the years which have elapsed since he became certificated ; and

(b.) has not at the date of the application been for more than the prescribed² time employed in recorded service ; and

(c.) has become permanently incapable, owing to infirmity of mind or body, of being an efficient teacher in a public elementary school ; and

(d.) is not excluded by the prescribed² disqualifications ; the Treasury may, subject to the prescribed² conditions and to the provisions³ of this Act, grant to such teacher out of moneys provided by Parliament an annual allowance (in this Act called 'a disablement allowance') not exceeding—

(a.) if the teacher is a man, twenty pounds for ten complete years of recorded service, with the addition of one pound for each complete additional year of recorded service ; and

(b.) if the teacher is a woman, fifteen pounds for ten complete years of recorded service, with the addition of thirteen shillings and fourpence for each complete additional year of recorded service ; and

(c.) in any case, the total annual sum which the teacher might obtain from an annuity and superannuation allowance under this Act by continuing to serve until the age of sixty-five years.

(2.) If the grantee of a disablement allowance attains the age of sixty-five years, any annuity which would otherwise be payable to the grantee out of the deferred annuity fund shall, except where the allowance has ceased by reason of the grantee being again employed as a teacher in recorded service, be paid to the Treasury and applied as they direct towards the payment of disablement allowances, and, in that case, the Treasury shall not award any superannuation allowance to the grantee.

(3.) A disablement allowance shall be reconsidered by the Treasury at intervals not exceeding three years ;⁴ and the rules shall provide for the suspension, cessation, or reduction of the allowance in whole or in part, if the prescribed conditions are not complied with or the prescribed disqualifications apply, and those disqualifications shall deal with the cases of persons who have caused or increased their infirmity by their own misconduct or default, or who marry or cease to be incapable, or become in such a position as not to be in pecuniary need of the allowance.

¹ This section refers to the 'Disablement Allowance.' See Explanatory Memorandum, p. 735.

² For the rules relating to the grant of a Disablement Allowance, see Rules 15 to 23, pp. 727-729.

³ See subsections (2) and (3) of this section, and §§7 to 10 pp. 719-720.

⁴ See Rule 24, p. 729.

Collection of Contributions and Deferred Annuity Fund arising therefrom.

3.—(1.) The contributions under this Act from certificated teachers shall be paid to the Education Department at the prescribed¹ time, and in the prescribed¹ manner by the teachers or their employers ; and the receipt of the Education Department for the amount of a contribu-

- tion paid by the employer of a teacher shall be a good discharge for the like amount of remuneration otherwise payable to the teacher.
- (2.) The contributions so received by the Education Department shall be paid to the National Debt Commissioners, and be invested by them so as to form a fund, in this Act referred to as 'the deferred annuity fund.'
 - (3.) The National Debt Commissioners shall pay out of the fund to the Treasury the sums required by the Treasury for the payment of annuities under this Act, but otherwise shall invest the contributions, and all income of the fund for the time being, in any securities in which money held by the Commissioners on account of savings banks may be invested.
 - (4.) Separate subsidiary funds shall be kept in respect of the contributions and annuities of men and women teachers respectively, and any part of the assets of one subsidiary fund may be used for meeting the liabilities of the other, and in that case the amount lent by the one to the other shall be a debt bearing interest at the rate used for the computation of the tables for the time being in force under this Act.
 - (5.) A return showing the state of the fund at the end of every financial year, distinguishing the said accounts, shall be annually laid before Parliament.
 - (6.) At the end of every seven years an actuarial inquiry into and report upon the assets and liabilities of the fund shall be made under the direction of the Treasury and the Education Department, and the report shall be laid before Parliament.

¹ See Rules 10 to 14 (p. 725) as to the time and manner and payment of contributions.

Tables of Deferred Annuities.

- 4.—(1.) The Treasury shall cause Tables¹ to be constructed, showing the amount of annuity payable out of the deferred annuity fund to men and women teachers respectively in respect of the contributions made by them from time to time under this Act, and so framed as to secure the fund against loss.
- (2.) If it appears from any actuarial report under this Act that the assets and liabilities of either account of the fund are such as either to require a reduction or to justify an increase of the annuities, the Treasury may cause fresh Tables to be constructed, and those tables, when approved by the Treasury, shall come into force and shall be laid before Parliament, and the former tables shall cease to be in force, and so on from time to time as occasion requires.

¹ The Tables constructed under this section are given on pp. 733 and 734.

Application of Act to Existing Teachers.

5. With respect to the application of this Act to certificated teachers who became certificated before the commencement of this Act (in this Act referred to as 'existing teachers') the following provisions shall have effect :—
- (1.) The Education Department shall, in the prescribed¹ manner, give to each existing teacher the option, within the prescribed¹ time, not being more than one year after the commencement of this Act, of accepting, in the prescribed¹ manner, this Act.

- (2.) If an existing teacher does not so accept this Act, it shall not apply to him. If an existing teacher does so accept this Act, it shall apply to him with the following modifications;² that is to say:—
- (a) The rate of ten shillings upon which the superannuation allowance is calculated may be augmented in the case of a man by threepence, and in the case of a woman by twopence, for each complete year of recorded service served before the commencement of this Act;
 - (b) If the teacher has at the date of the acceptance attained the age of sixty-five years or any greater age, and has served in recorded service throughout the seven years, next before the commencement of this Act, the provisions with respect to the expiration of the certificate shall apply as if the date of the acceptance were substituted for the date at which the teacher attained the age of sixty-five years;
 - (c) If the teacher has not at the date of the acceptance attained the said age, he must serve in recorded service after the commencement of this Act, and where, during any part of the seven years next before the commencement of this Act, he was not in recorded service, the duration of the recorded service after the commencement of this Act must not be less than the said part of the seven years.
- (3.) Nothing in this section shall authorise the grant of any allowance to any teacher who at the commencement of this Act is in receipt of a pension out of moneys provided by Parliament for the service of education.³

¹ For the rules made under this subsection, *see* Rules 31 to 33, p. 731.

The Board of Education state that they are advised that a teacher, who has formally intimated to the Department his acceptance of the Act, cannot withdraw such acceptance.

² For the effect of these modifications, *see* the Explanatory Memorandum, p. 735.

³ The pension referred to in this subsection is the pension payable under Article 130 of the Day School Code (*see* p. 598). The operation of that article is limited to those 'existing teachers' (*see* the first paragraph of this section) who were employed as teachers, or were recognised students in any training college, on the 9th May, 1862, and no application for a pension under it will be entertained unless it is made before the 1st April, 1906. In view of the provisions of this Act, it is further provided in subsections (8) to (11) of the Article as follows:—

(8) No person will be eligible for a pension under this article who has accepted the Elementary School Teachers Superannuation Act, 1898.

Provided that, if a person who has accepted the Act is proved to the satisfaction of the Board to be unable to qualify for an allowance under the Act, he may be granted a pension under this article not exceeding £20 per annum.

(9) No person who completed the 65th year of his age before the 1st of April 1901 will be granted a pension under this article unless an application for a pension is made on his behalf before the 1st April 1902.

(10) No person who was under 65 years of age on the 1st April 1901 will be granted a pension under this article unless an application for a pension is made on his behalf within three months of his attaining the age of 65.

(11) A teacher over 65 years of age to whom a pension is granted under this article will not be recognised as a certificated teacher unless the Board, on account of his special fitness, allow his service to continue for a limited time. Application for the service of a teacher to continue may be made at the same time as the application for a pension. Such permission, if granted, will as a rule be granted for periods not exceeding one year at a time.

It is provided by Schedule II. (20) of the Education Act, 1902, that any local education authority who have established any pension scheme, or scheme for the superannuation of their officers [this term includes teachers in a public elementary school provided by the authority, *see* Elementary Education Act, 1870, §35, p. 231], may admit to the benefits of that scheme any officers transferred to them under the Act on such terms and conditions as they think fit.

Rules.

6.—(1.) The Treasury and the Education Department may make rules¹ for carrying into effect this Act, and shall provide thereby—

- (a) for permitting certificated teachers to pay contributions to the deferred annuity fund during any interval not exceeding six months in which they are not employed in recorded service, and for reckoning the time in respect of which such contributions are made, as if it were recorded service;²
- (b) for the application of an annuity or allowance under this Act when payable to a person who is of unsound mind, or otherwise incapable of giving a receipt;³
- (c) for the suspension of all or any part of an allowance when the grantee is wholly or partly maintained out of any public money;⁴ and
- (d) for the payment of any sum under one hundred pounds due on the death of a person without the production of probate or other proof of the title of the personal representative of such person.⁵

(2.) All rules made under this section shall be laid, as soon as may be, before both Houses of Parliament.

¹ The rules made in pursuance of this section are given on p. 723 *et seqq.*

² *See* Rule 13, p. 726.

³ *See* Rule 29, p. 731.

⁴ *See* Rule 30, p. 731.

⁵ *See* Rule 28, p. 730.

Decision of Treasury and Education Department.

7. Any question which arises as to the application of any section of this Act to any person, or as to the amount of any annuity or allowance under this Act, or as to the grant, refusal, suspension, or cessation of any such allowance, shall be referred to the Treasury, and any question as to the reckoning of any service for any purpose of this Act shall be referred to the Education Department, and the decision of the Treasury or Education Department on any question so referred shall be final.

Forfeiture for Misconduct.

8.—(1.) Where the certificate of a teacher is suspended or cancelled by the Education Department, the teacher shall not be entitled to any disablement allowance under this Act unless the certificate is restored by the Department.¹

(2.) Where the Education Department certify to the Treasury that a recipient of any superannuation allowance, or disablement allowance under this Act, has been proved to them to have been guilty of any

act or conduct which, if he had continued to serve as a teacher, would have justified them in suspending or cancelling his certificate, the Treasury shall suspend or determine the allowance in whole or in part.

¹ As to the suspension or cancellation of a teacher's certificate, see Article 67 of the Day School Code, p. 580.

As to Payment and Assignment of Annuities and Allowances.

- 9.—(1.) Every annuity and allowance under this Act shall be payable quarterly at such times and payable and apportionable in such manner as the Treasury may fix.¹
- (2.) Every assignment of or charge on, and every agreement to assign or charge, any annuity or allowance to a teacher under this Act, whether payable presently or at some future date, shall be void, and on the bankruptcy of the teacher the annuity or allowance shall not pass to any trustee or other person acting on behalf of the creditors, but this provision shall be without prejudice to any order of the Court made under Section 53 of the Bankruptcy Act, 1883, or any corresponding enactment in Scotland or Ireland.

¹ See Rules 25 to 27 as to the payment of annuities and allowances.

Punishment for Fraud and Personation.

10. If any person—

- (a) for the purpose of obtaining for himself or any other person an annuity or allowance under this Act, personates any person, or makes any false certificate, false representation, or false statement, or makes use of any false certificate or document, false representation, or false statement, knowing the same to be false or
- (b) by means of any such false certificate, document, representation, or statement, or by other fraudulent means, or by any personation, obtains or attempts to obtain for himself or any other person any annuity or allowance under this Act,

he shall on conviction on indictment be liable to imprisonment, with or without hard labour, for a term not exceeding two years, and on summary conviction be liable to imprisonment, with or without hard labour, for a term not exceeding three months, or to a fine not exceeding twenty-five pounds, and any penalty under this section may be in addition to any suspension or determination of his allowance under this Act.

For the purposes of this section the obtaining of an annuity or allowance includes the increase of any annuity or allowance, and the prevention or rescission of any cessation or suspension of an annuity or allowance, and the obtaining of any sum in respect of any annuity or allowance.

Definitions.

11. In this Act, unless the context otherwise requires—

The expression 'certificated teacher' means a teacher who is recognised under the Education Code¹ as a certificated teacher for public elementary schools;

The expression 'certificate' includes any document issued by the

Education Department, which recognises a teacher as a certificated teacher :

The expression 'Education Code' means such minutes of the Education Department as are for the time being in force for the purpose of the Elementary Education Act, 1870 :¹

The expression 'prescribed' means prescribed by rules under this Act.

¹ For the Code, see p. 569.

Application to Scotland.

12. In the application of this Act to Scotland, the following provisions shall have effect :—

- (1.) The expression 'Education Department' means the Scotch Education Department, and the expression 'Education Code' means the Scotch Education Code :
- (2.) The expression 'public elementary school' means a public or other school in receipt of annual parliamentary grant :
- (3.) Section 149 of the Bankruptcy (Scotland) Act, 1856, shall be substituted for Section 53 of the Bankruptcy Act, 1883 :
- (4.) The Education (Scotland) Act, 1872, shall be substituted for the Elementary Education Act, 1870 :
- (5.) Nothing contained in or done under this Act shall apply to or affect any teacher of a public school in Scotland appointed before the passing of the Education (Scotland) Act, 1872, unless the teacher has accepted this Act in pursuance of the provisions of Section 5 hereof :
- (6.) It shall not be lawful for a school board in Scotland to grant under the powers conferred by Section 61 of the Education (Scotland) Act, 1872, a retiring allowance payable out of the school fund to any teacher of a public school under their management who has accepted this Act in pursuance of the provisions of Section 5 hereof, or to whom this Act otherwise applies.

*Extent of Act.*¹

13. This Act shall not extend to Ireland.

¹ By the Elementary School Teachers Superannuation (Isle of Man) Act, 1900, which was passed in order to meet the case of certificated teachers, the whole or part of whose recorded service has been service in the Isle of Man it was provided :—

1. Subject to the provisions of this Act, the Elementary School Teachers (Superannuation) Act, 1898 (in this Act referred to as the principal Act) shall apply to teachers serving in the Isle of Man and to service as a teacher in that Island, as it applies to teachers serving in England or Scotland and to service as a teacher in England or Scotland.

2. Recorded service in the Isle of Man shall not be reckoned as such service for the purpose of annual superannuation allowances or disablement allowances under the principal Act, unless provision is made and maintained to the satisfaction of the Treasury by the legislature of the Island—

- (i) for the grant and payment of any such allowances in the case of a teacher the whole of whose recorded service has been service in the Island, by the Government of the Island out of Island Funds instead of by the Treasury ; and
- (ii) in the case of the grant of any such allowance to a teacher whose recorded service has been partly service in the Island and partly service elsewhere, for the repayment to the Treasury out of Island Funds of a part of that allowance proportionate or assignable to the period of the recorded service in the Island.

3. Section five of the principal Act (which relates to the application of the Act to existing teachers) shall as respects any such teacher who has been serving in the Isle of Man at any time after the commencement of the principal Act, and has not already accepted that Act, be read as if the period of twelve months after the commencement of this Act were substituted for the period of one year after the commencement of the principal Act as the maximum time to be prescribed within which the option to accept the principal Act may be exercised.

4.—(1.) The power to grant an annual superannuation allowance or a disablement allowance under sections one and two of the principal Act shall be exercised in the case of a teacher, the whole of whose recorded service has been service in the Isle of Man, by or on behalf of the Government of the Island instead of by the Treasury, and any allowance granted under the power so exercised shall not be paid out of moneys provided by Parliament.

Paragraph (d) of subsection (2) of section one of the principal Act, and sections two, seven, and eight of that Act shall accordingly be construed as if as respects the superannuation and disablement allowances of such teachers 'the Government of the Isle of Man' were substituted for 'the Treasury,' and 'Island Funds' for 'moneys provided by Parliament.'

(2.) Section nine of the principal Act shall apply in the Isle of Man as if the words 'or in the Isle of Man' were added at the end of the section.

(3.) Subsection three of section five of the principal Act shall be construed as if the words 'or the legislature or Government of the Isle of Man' were added after the word 'Parliament.'

(4.) Section eleven of the principal Act shall be construed as if the words 'or as respects the Isle of Man the corresponding law in force in that Island' were added at the end of the definition of 'Education Code.'

(5.) Section ten of the principal Act shall apply in the Isle of Man as if the words 'be guilty of a misdemeanour and' were inserted after the word 'shall' in that section, and as if the expression 'indictment' included information, and the expression 'summary conviction' meant conviction by a high bailiff or two justices of the peace.

A similar Act was also passed in 1900 to meet the case of certificated teachers the whole or part of whose recorded service has been service in Jersey.

Both these Acts are now operative, the provision required by §2 thereof having been duly made, and rules having been made under §6 of the principal Act for carrying them into effect.

Commencement of Act.

14. This Act shall come into operation on the first day of April next after the passing thereof or on such day, not more than three months later, as may be fixed by Her Majesty in Council.¹

¹ The Act came into operation on the 1st April, 1899, no later day being fixed by Order in Council. The rules made under the Act came into force on the same date (p. 723).

Short Title.

15. This Act may be cited as the Elementary School Teachers (Superannuation Act, 1898).

ELEMENTARY SCHOOL TEACHERS (SUPERANNUATION) RULES, 1899.¹

RULES dated 1st April 1899, made by the Treasury and the Education Department for carrying into effect the Elementary School Teachers (Superannuation) Act, 1898.

THE following rules shall have effect under the Elementary School Teachers (Superannuation) Act, 1898 (in these rules referred to as 'the Act') :—

GENERAL.

Short Title Commencement, and Extent.

- 1.—(1.) These rules may be cited as the Elementary School Teachers Superannuation Rules, 1899.
- (2.) These rules shall come into operation at the same time as the Act comes into operation, and that time is in these rules referred to as the commencement of these rules.
- (3.) These rules shall not apply to Scotland.

Interpretation.

- 2.—(1.) In these rules, the expression 'contribution' means the contribution required by the Act to be made by a teacher to the deferred annuity fund, and the expression 'annuity' means the annuity payable to a teacher under the Act out of that fund.
- (2.) The expression 'school year' means the year or other period for which an annual parliamentary grant is for the time being paid or payable under the Education Code.
- (3.) Expressions to which special meanings are attached by the Act have, unless the context otherwise requires, the same respective meanings in these rules.
- (4.) The Interpretation Act, 1889, applies for the purpose of the interpretation of these rules as it applies for the purpose of the interpretation of an Act of Parliament.

Sending of Notices, etc.

3. Any application to be made or any notice, document, or other communication to be sent to the Treasury,² Education Department,² or Paymaster-General,² under these rules, shall be so made or sent by post, and if it is to be made or sent to the Treasury through the Education Department, or Paymaster-General, shall be directed to the Education Department or Paymaster-General, as the case may be.

Extension of Time.

4. The Treasury may, subject to the provisions of the Act, on the application of any person interested, alter or extend any time at or within which anything is required to be done under these rules if they consider that there are reasonable grounds for the application.

Supply of Forms.

5. The Education Department or the Paymaster-General, as the case may be, will supply to any teacher, on his application, such forms as they think fit, for use

¹ See the footnote on p. 718.

² Application, etc., should be addressed to the Secretary to the Treasury, or the Secretary to the Education Department, or the Paymaster-General (as the case may be), London, S.W.

by the teacher for the purpose of these rules, and, if they think fit, may require a teacher, for the purpose of these rules, to use the forms so to be supplied.

EVIDENCE OF PHYSICAL CAPACITY AND AGE.

Medical Certificate of Physical Capacity.

- 6.—(1.) For the purpose of satisfying the Education Department of his physical capacity a person applying after the commencement of the Act to be recognised by that Department as a certificated teacher must be examined by a medical officer nominated for the time being by the Department.¹

¹ See Rule 84, *post*.

- (2.) Lists of the medical officers so nominated for the time being can be obtained on application to the Education Department.
- (3.) The examination must take place—
- (a) in the case of a person who applies to be examined for a certificate, not earlier than the 1st day of April and not later than the first day of June in the year in which the second year's certificate examination is to take place.
 - (b) in the case of a person who applies to be recognised as a certificated teacher without examination, within the time fixed by the Department when the application for recognition is received.

Evidence of Age.

- 7.—(1.) A person applying after the commencement of the Act to be recognised by the Education Department as a certificated teacher must produce to the Department evidence of his age, by means of the certificate of a Registrar of Births and Deaths, or, failing such a certificate, by some other means sufficient in the opinion of the Department.
- (2.) The evidence must be produced—
- (a) in the case of a person who applies to be examined for a certificate, at the time of the application to attend the second year's certificate examination; and
 - (b) in the case of a person who applies to be recognised as a certificated teacher without examination, at the time of the application for recognition.

CALCULATION OF AVERAGE SALARIES.

Calculation of Average Salaries of Teachers.

8. The average salaries of certificated teachers shall be calculated for the purpose of subsection three of section one of the Act by dividing the total of the sums given in the returns made by the managers of schools to the Education Department as the professional incomes of men and women teachers respectively by the number of men and women teachers in respect of which the returns are so made.

RECORDED SERVICE.

Recorded Service.

- 9.—(1.) Such service as is recorded by the Education Department in the capacity, within the meaning of the Education Code, either of a teacher in a training college, or of an organising teacher, or of a teacher of a central class of pupil teachers, or of a teacher in a certified reformatory or industrial school will be included for the purpose of the Act as 'recorded service.'
- (2.) In addition to such service as is specially mentioned in subsection five of section one of the Act, service in the capacity of teacher in a central class for the instruction of scholars on the registers of public elementary schools in any

subject which under the Education Code may be taught off the school premises shall, if recorded by the Education Department, be recorded service for the purpose of the Act.¹

¹ See §1 of the Explanatory Memorandum (p. 785).

PAYMENT OF CONTRIBUTIONS.

Deductions from Annual Grant in the case of Teachers in Schools, etc., to which a Grant is made.

- 10.—(1.) The Education Department shall deduct from any grant payable by them to any public elementary school at the close of any school year an amount equal to the contributions due from the certificated teachers employed in the school for that year or any part of that year in which they have been so employed.
- (2.) The Education Department shall similarly deduct from any grant payable by them to any residential training college at the close of the year for which the college accounts are made up an amount equal to the contributions due from the certificated teachers employed in the college for that year or any part of that year in which they have been so employed.
- (3.) The Secretary of State shall deduct, from any grant payable by him to any reformatory or industrial school at the close of the year ending the 30th day of September, an amount equal to the contributions due from the certificated teachers employed in the school for that year, or any part of that year in which they have been so employed, and shall pay the amount so deducted to the Education Department.
- (4.) The Education Department or Secretary of State in forwarding any grant payable by them to the managers of the school or college shall forward with it the receipt of the Education Department for the deductions made, specifying separately the deduction made on account of each teacher, and the managers of the school or college shall, if required by any such teacher within one year of the receipt being so forwarded, give the teacher a copy of so much of the receipt as relates to him.
- (5.) The contributions so deducted shall be treated for the purpose of the tables under section four of the Act as having been paid in the case of teachers in public elementary schools in receipt of a grant from the Education Department on the day following the end of the school year, and in the case of teachers in residential training colleges on the first day of July before the date of the payment of the grant from which the contribution is deducted, and in the case of teachers in reformatory and industrial schools on the day following the close of the year for which the deductions are made.
- (6.) When a teacher becomes entitled to an annuity, any contributions due from him which, but for this provision, would have been made by deduction shall not be so made by deduction, but shall be paid direct by the teacher to the Education Department.
- (7.) No deduction on account of contributions will be made until the expiration of six months after the commencement of these rules, and accordingly the first deductions made under these rules will be made in respect of contributions due during the period between the commencement of the Act, and the end of the first school year or other period when deductions are made.
- (8.) Where a teacher's contribution should be paid by means of a deduction under this rule, no other mode of payment will be recognised, and no sum paid on account of any such contribution direct to the Education Department or otherwise than by means of the deduction will be received by the Department, except in a case where the deduction should have, but has not actually, been made.

Payment of Contributions in case of other Teachers.

- 11.—(1) Where a teacher is employed in recorded service which is not service in respect of which deductions for contributions can be made under the preceding rule, he must send notice of the fact that he is so employed to the Education Department if possible, before the fifteenth day of August in each year during which or part of which the employment continues, and shall while he is so employed directly or through his employers send to the Education Department before the fifteenth day of September in any year the amount due on account of his contribution up to the thirty-first day of July in that year.¹

¹ The Board of Education have intimated that this Rule is intended to meet the case of the following classes of teachers:—

Supply Teachers;
Organising Teachers (as defined in Article 5* of the Code);
Teachers of Central Classes;
Peripatetic Teachers;
Teachers in Day Training Colleges;
Teachers in Certified Efficient Schools not on the Annual Grant List.

- (2.) A teacher so employed shall give to the Education Department such information with regard to his employment as they may require.
(3.) Any contributions so paid before the fifteenth day of September in any year shall be treated for the purpose of the tables under section four of the Act as having been paid on the previous first day of August.

Provision where payments in respect of Contributions have not been made.

- 12.—(1) Where a payment on account of a contribution has not been made in accordance with these rules by reason either of a deduction not having been made when it should have been made, or of the omission of the teacher to make a contribution, or otherwise, the teacher from whom the contribution is due shall either pay the amount due direct to the Education Department, or, if he is employed in a public elementary school or a residential training college in receipt of a grant, authorise the Department, or in the case of a reformatory or industrial schools the Secretary of State, to add the amount so due to the deduction next made on account of his contribution.
(2.) Any contribution paid under this rule direct to the Education Department shall be treated for the purpose of the tables under section four of the Act as having been paid on the day on which it is received.

Intervals of Recorded Service.

- 13.—(1) A certificated teacher shall be permitted to pay contributions in respect of any interval not being longer than six months between his employment in recorded service, and, where contributions are so paid in respect of any such interval, that interval shall, for the purpose of determining the amount of any annuity or allowance, be reckoned as recorded service.
(2.) Where a teacher desires to pay any such contributions in respect of an interval, he shall, on resuming recorded service, give notice to the Education Department that contributions are to be paid in respect of the interval, and the amount of contributions so due shall be added to the payment or deduction next made on account of contributions.

Estimating amount of Contributions for periods less than a year.

14. In estimating the amount of contributions to be paid or deducted for a period of recorded service less than a full year, one-twelfth part of the annual contribution shall be paid or deducted for each month, or part of a month not less than fifteen days, of recorded service completed, but no payment or deduction shall be made or accepted for any part of a month less than fifteen days of such recorded service.

DISABLEMENT ALLOWANCE.

Mode of making application for a Disablement Allowance.

- 15.—(1.) An application by a teacher for a disablement allowance must be made by him to the Treasury through the Education Department, but if the teacher is of unsound mind, or otherwise unable, in the opinion of the Education Department, to make the application himself, the application may be made by any other persons on his behalf.
- (2.) The application must be sent to the Education Department, and if made in manner required by this rule will be submitted by them to the Treasury.
- (3.) Where an application is made on behalf of a teacher by another person, the reasons for the application not being made by the teacher himself must be stated in the application, and the Education Department may refuse to submit any application to the Treasury if those reasons are not in their opinion sufficient.
- (4.) The Education Department will, as soon as may be, inform a teacher applying for a disablement allowance, or any person making an application on behalf of a teacher, of the decision of the Treasury with regard to the application, and will also inform the managers of the school at which the teacher was last employed.

Medical Examination and Report.

- 16.—(1.) A teacher applying for a disablement allowance must, except as otherwise provided for by this rule, submit himself for special medical examination to a medical officer chosen by the Education Department, whose name and address will be given to the teacher by that Department.¹
- (2.) Where a teacher is an inmate of a public lunatic asylum, a special medical examination will be dispensed with, and the report of the medical officer of the asylum will be accepted by the Education Department in lieu of the report of the medical officer chosen by that Department.
- (3.) The Education Department may also dispense with the special medical examination in any case in which a medical report sufficient in their opinion is furnished to them as to the condition of the teacher, and in which they are satisfied that the special medical examination is owing to exceptional circumstances inexpedient or impracticable, and may accept the medical report so furnished in lieu of the report of the medical officer chosen by the Education Department.
- (4.) The report under this rule of a medical officer chosen by the Education Department, and any medical report accepted by the Education Department in lieu thereof, must state—
- (a) whether in the opinion of the person making the report the teacher has or has not become permanently incapable owing to infirmity of mind or body of being an efficient teacher in a public elementary school; and
 - (b) whether in the opinion of the person making the report the infirmity of the teacher has or has not been caused or increased by the teacher's own misconduct or default.¹

¹ See Sub-sections (2) and (3), and Rule 34.*Information to be furnished as to certain matters.*

- 17.—(1.) A teacher applying for a disablement allowance, or if the application is made on behalf of the teacher by any other person, the person making the application must furnish to the Education Department a statement stating particulars—
- (a) as to the number of years of the teacher's recorded service, and the number of years which have elapsed since the teacher became certificated; and

- (b) as to the dates on which any periods of recorded service have commenced and ended ; and
 - (c) as to the pecuniary circumstances of the teacher ; and
 - (d) if the teacher is a woman, as to whether the teacher is or has been married or not.
- (2.) The Education Department may in any case require the statement to be verified by further evidence, or by a statutory declaration or otherwise in such manner as they think fit.

Medical report, particulars, and certificate to be submitted to Treasury.

- 18.—(1.) The Education Department on submitting an application for a disablement allowance to the Treasury shall submit to them the report of the medical officer after the special medical examination required by these rules, or the medical report accepted in lieu thereof, and the statement of particulars furnished to them by the teacher, and shall also submit their own report upon the case.
- (2.) The Education Department shall certify to the Treasury—
- (a) whether the teacher has served a number of years of recorded service not less than ten, and not less than half the years, which have elapsed since he became certificated or not ; and
 - (b) whether the teacher has at the date of the application been for more than the time fixed by these rules unemployed in recorded service or not.

Matters of which Treasury are to be satisfied.

19. — (1.) Before granting a disablement allowance the Treasury must be satisfied by the certificate of the Education Department,—
- (a) that the teacher has served a number of years of recorded service not less than ten, and not less than half the years which have elapsed since he became certificated ; and
 - (b) that the teacher has not at the date of the application been for more than the time fixed by these rules unemployed in recorded service ;
- and must also be satisfied that the teacher has become permanently incapable, owing to infirmity of mind or body, of being an efficient teacher in a public elementary school, and is not excluded by the disqualifications provided by these rules.

Period during which Teacher has been Unemployed at Date of Application.

20. The time during which a teacher, in order to obtain a disablement allowance, must not at the date of the application for the allowance have been unemployed in recorded service is one year, or such extended time as the Treasury on the report of the Education Department may allow in cases where they are satisfied that there is a sufficient cause for an application not having been made within one year after the termination of the teacher's recorded service.

Disqualifications for Disablement Allowance.

21. The following disqualifications shall have effect as regards the grant of disablement allowances :—
- (1.) A teacher shall be disqualified for the grant of an allowance if he is not in pecuniary need of it, and shall be disqualified for a grant of part of an allowance if he is not in pecuniary need of that part.
 - (2.) A teacher shall be disqualified for the grant of an allowance if his infirmity has been wholly caused by his own misconduct or default, and, if his infirmity though not wholly so caused has been increased by his own

misconduct or default, shall be disqualified for the grant of such part of the allowance as the Treasury think fit.

- (3.) A teacher who is a woman and has married since her last employment in recorded service shall be disqualified for the grant of an allowance.

Payment of Disablement Allowances.

- 22.—(1.) A disablement allowance, if granted, will be payable from the date on which the application reached the Education Department, or from the date on which the teacher's paid service has ceased, whichever is the later date.
- (2.) Service after the date on which the application for a disablement allowance has reached the Education Department will not be reckoned as recorded service for the purpose of that allowance.

Provision as to Discontinuance of Allowance.

- 23.—(1.) The Treasury may suspend, determine, or reduce any disablement allowance, if at any time after the grant thereof, whether on the periodical reconsideration of the allowance or not, they are satisfied that any of the following disqualifications apply, namely—
- (a) that the teacher has ceased to be incapable, owing to infirmity of mind or body, of being an efficient teacher in a public elementary school ;
 - (b) that the teacher has ceased to be in pecuniary need of the allowance, or of any part of it ;
 - (c) that the teacher, if a woman, has married.
- (2.) Any application on behalf of a teacher for the resumption of the payment of a disablement allowance which has been suspended, shall be made to the Treasury through the Education Department.

Documents to be sent for the Periodical Reconsideration of the Allowance.

- 24.—(1.) For the purpose of the periodical reconsideration of a disablement allowance, the following documents shall be sent by or on behalf of the teacher in receipt of the allowance to the Treasury through the Paymaster-General before the day for the quarterly payment which comes next before each completed period of three years from the commencement of the allowance.
- (a.) A certificate of a qualified medical practitioner stating whether or not the teacher is still incapable owing to infirmity of mind or body of being an efficient teacher in a public elementary school ;
 - (b.) A statement of the teacher's income from all sources ;
 - (c.) A statement by the teacher, or in the case of his being of unsound mind or practically incapable of making the declaration, by some person on his behalf,—
 - (i) that the circumstances of the teacher are such that he is still in pecuniary need of the allowance ; and
 - (ii) that the teacher, if a woman, has not married during the period to which the documents relate.
- (2.) A disablement allowance is granted on the condition that the requirements of these rules as to the sending of documents for the purpose of the periodical reconsideration of the allowance are complied with, and if those requirements are not complied with, the Treasury may suspend, determine, or reduce the allowance as they think fit.

PAYMENT OF ANNUITIES AND ALLOWANCES.

Application for Payment of Annuities and Grant of Allowances.

- 25.—(1.) Where a teacher claims to be entitled to an annuity, he must send to the Treasury, through the Education Department, an application for the payment of the annuity, and, if he wishes for the grant of an annual superannuation allowance, for the grant of that allowance, and shall send with the application particulars as to his age and his years of recorded service since he became certificated.
- (2.) As soon as the Treasury are satisfied that the teacher applying for the payment of an annuity is entitled to the annuity, they will direct the Paymaster-General to pay the annuity in manner provided by these rules and send notice to the teacher through the Education Department that the direction has been given.
- (3.) The Treasury will, as soon as may be, through the Education Department, send notice to the teacher applying for the grant of an annual superannuation allowance of their decision in the matter, and if the allowance is granted will direct the Paymaster-General to pay the allowance in manner provided by these rules.
- (4.) A teacher making an application under this section must give the Treasury any information they may require in addition to the particulars furnished by him on his application.

Payment of Annuities.

- 26.—(1.) An annuity or allowance under the Act shall be considered as accruing from day to day, but shall be payable by equally quarterly payments at the close of each quarter ending on the quarter days mentioned in this rule.
- (2.) Where an annuity or allowance begins or ends during a quarter, an apportioned part of the annuity or allowance shall be payable on the quarter day after the annuity or allowance has begun or ended, calculated according to the number of days in the quarter.
- (3.) The quarter days for the purpose of this rule are the thirty-first day of March, the thirtieth day of June, the thirtieth day of September, and the thirty-first day of December.
- (4.) Payments on account of annuities or allowances under the Act will be made by the Paymaster-General, and, if the Paymaster-General makes arrangements for the purpose, may be made locally.
- (5.) Such evidence of the life and identity of a teacher must be produced to the Paymaster-General as he may require before making any payment to or on account of the teacher.

Contributions to be fully paid up.

27. No sum will be paid on account of any annuity or allowance to a teacher, unless all the contributions due from him in respect of the annuity have been fully paid.

PAYMENTS ON DEATH OR INCAPACITY OF TEACHER.

Payments on Death of Teacher.

- 28.—(1.) Where on the death of any teacher any sum is due to his estate on account of any annuity or allowance under the Act, the Treasury may, if probate or other proof of the title of the personal representative of the teacher is not produced to them within three months of the death, authorise the Paymaster-General to pay the sum due to, or distribute it amongst the persons appearing to the Treasury to be beneficially entitled to the personal estate of the teacher, and the Treasury and the Paymaster-General shall be discharged from any liability in respect of such payment or distribution.

- (2.) Any person claiming to have a payment made to him under this rule must transmit to the Treasury through the Paymaster-General a statutory declaration showing the title under which he makes the claim, and such other particulars in relation thereto as the Paymaster-General requires.

Provision where Teacher is of Unsound Mind or unable to give Receipt.

- 29.—(1.) Where the Treasury are satisfied by the certificate of a justice of the peace, or minister of religion, and of a duly qualified medical practitioner, that a teacher in receipt of an annuity or allowance under the Act is of unsound mind or otherwise incapable of giving a receipt they may authorise the Paymaster-General to pay any sum due on account of any such annuity or allowance, partly to the institution or person having the care of the teacher, partly for the benefit of the wife, husband, or relatives of the teacher in such proportion and in such manner as the Treasury direct.

Provided that where any such teacher is maintained in any asylum or other institution supported out of local rates, any sum due on account of a superannuation or disablement allowance shall be applied towards the maintenance of the teacher before it is applied for the benefit of the wife, husband, or relatives of the teacher, and any sum due on account of an annuity shall be applied towards the maintenance of the wife (or children) (if any) of a teacher dependent on him before it is applied towards the maintenance of the teacher.

- (2.) Any application with regard to the payment of an annuity or allowance under this rule should be made to the Treasury through the Paymaster-General.
 (3.) An authority given by the Treasury for the payment or application of any annuity or allowance under this rule will remain in force until cancelled or varied, but will be cancelled or varied as occasion requires, and the Paymaster-General may at any time suspend any payment under the rule until he is satisfied that the circumstances are such as to justify the continuance of the payment.

Suspension of Allowance where a teacher is supported out of Public Money.

30. Where a teacher becomes a pauper lunatic, or is otherwise wholly or partly maintained out of public money, so much of any allowance shall be suspended as is equal to the sum which the Treasury consider is contributed out of public money towards the cost of maintaining the teacher, or if that sum is equal to or greater than the allowance the whole of the allowance shall be suspended.

OPTION OF EXISTING TEACHERS TO ACCEPT THE ACT.

Notice of Option.

- 31.—(1.) The Education Department shall as soon as may be give to each existing teacher the option of accepting the Act—
 (i) by sending to any such teacher whom they know to be employed in recorded service a form of option; and
 (ii) by supplying any existing teacher who applies for such a form, or for information as to the exercise of the option, with such a form.
 (2.) The Education Department shall also cause notices to be published by advertisement in such papers as they think fit calling the attention of existing teachers to their option under the Act.

Notice of Acceptance of Act.

- 32.—(1.) If a teacher wishes to accept the Act he must give notice of his acceptance to the Education Department on the form provided for the purpose within six months after the commencement of the Act; but the Education Department may accept any such notice (if given within one year after the

commencement of the Act) in any case in which in the opinion of the Education Department there was a reasonable cause for the omission to give the notice within the six months.

- (2.) A teacher shall be taken to have accepted the Act as from the date on which the notice of acceptance is posted.

Evidence of Age where Teacher accepts Act.

33. The Education Department may require any existing teacher who accepts the Act to furnish evidence of age satisfactory to the Department, and the Treasury may refuse to pay any annuity or allowance to a teacher who has failed to comply with any requirement of the Education Department under this rule.

MEDICAL EXAMINATIONS.

Expenses of Medical Examination.

- 34.—(1.) A medical officer nominated or chosen by the Education Department will be bound to make any medical examination required by these rules on payment of a fee of ten shillings and sixpence.
 (2.) The fee and all other expenses incurred by a person offering himself for examination in relation thereto must be paid by him or on his behalf.
 (3.) A medical officer making a medical examination required under these rules will transmit his report of the result of the examination to the Education Department.

(Signed)	STANLEY,	} Two of the Lords Commissioners of H.M. Treasury.
	H. T. ANSTRUTHER,	
	DEVONSHIRE,	
	Lord President of the Council.	
	JOHN E. GORST,	
	Vice-President of the Committee of Council on Education.	

1st April, 1899.

ANNUITY TABLES MADE UNDER THE
ELEMENTARY SCHOOL TEACHERS (SUPERANNUATION)
ACT, 1898.

MEN.

TABLE showing the AMOUNT of ANNUITY, payable quarterly, from the attainment of the Age of 65 Years, in return for a Contribution made by or on behalf of a Man Teacher of the Age undermentioned.

Note.—Fractions of Fourpence are to be omitted in the Total Annuity to be granted for any series of Contributions.

Age at which a Contribution is treated as having been paid (Rules 10 (5), 11, 12 and 13 of 1899).		Amount of Annuity for a Contribution of £s.	Age at which a Contribution is treated as having been paid (Rules 10 (5), 11, 12 and 13 of 1899).		Amount of Annuity for a Contribution of £s.
		£ s. d.			£ s. d.
20 and not exceeding	21	1 13 8	43 and not exceeding	44	0 15 8
21	22	1 12 9	44	45	0 15 1
22	23	1 11 9	45	46	0 14 6
23	24	1 10 10	46	47	0 13 11
24	25	1 9 11	47	48	0 13 5
25	26	1 9 0	48	49	0 12 10
26	27	1 8 1	49	50	0 12 4
27	28	1 7 3	50	51	0 11 10
28	29	1 6 5	51	52	0 11 4
29	30	1 5 7	52	53	0 10 10
30	31	1 4 9	53	54	0 10 5
31	32	1 3 11	54	55	0 9 11
32	33	1 3 2	55	56	0 9 6
33	34	1 2 5	56	57	0 9 1
34	35	1 1 8	57	58	0 8 8
35	36	1 0 11	58	59	0 8 3
36	37	1 0 3	59	60	0 7 10
37	38	0 19 6	60	61	0 7 6
38	39	0 18 10	61	62	0 7 2
39	40	0 18 2	62	63	0 6 9
40	41	0 17 6	63	64	0 6 5
41	42	0 16 11	64	65	0 6 1
42	43	0 16 3			

WOMEN.

TABLE showing the AMOUNT of ANNUITY, payable quarterly, from the attainment of the Age of 65 Years, in return for a Contribution made by or on behalf of a Woman Teacher of the age undermentioned.

Note.—Fractions of Fourpence are to be omitted in the Total Annuity to be granted for any series of Contributions.

Age at which a Contribution is treated as having been paid (Rules 10 (5), 11, 12 and 18 of 1899).		Amount of Annuity for a Contribution of £2. ¹	Age at which a Contribution is treated as having been paid (Rules 10 (5), 11, 12 and 18 of 1899).		Amount of Annuity for a Contribution of £2. ¹
		£ s. d. ¹			£ s. d. ¹
20 and not exceeding	21	0 15 9	43 and not exceeding	44	0 8 0
21	22	0 15 4	44	45	0 7 9
22	23	0 14 11	45	46	0 7 7
23	24	0 14 6	46	47	0 7 4
24	25	0 14 1	47	48	0 7 1
25	26	0 13 9	48	49	0 6 10
26	27	0 13 4	49	50	0 6 7
27	28	0 13 0	50	51	0 6 5
28	29	0 12 7	51	52	0 6 2
29	30	0 12 3	52	53	0 6 0
30	31	0 11 11	53	54	0 5 9
31	32	0 11 7	54	55	0 5 7
32	33	0 11 3	55	56	0 5 4
33	34	0 10 11	56	57	0 5 2
34	35	0 10 7	57	58	0 4 11
35	36	0 10 3	58	59	0 4 9
36	37	0 10 0	59	60	0 4 7
37	38	0 9 8	60	61	0 4 4
38	39	0 9 5	61	62	0 4 2
39	40	0 9 1	62	63	0 4 0
40	41	0 8 10	63	64	0 3 10
41	42	0 8 7	64	65	0 3 7
42	43	0 8 4			

¹ The annual contribution of £2 has been increased, by Treasury Warrant, to £2, 4s., and the amount of annuity ultimately payable is correspondingly increased (see note 10 to §1 (3) of the Act, p. 715).

EXPLANATORY MEMORANDUM ON THE ELEMENTARY SCHOOL TEACHERS (SUPERANNUATION) ACT, 1898.¹

EDUCATION DEPARTMENT,
1st April 1899.

The Elementary School Teachers (Superannuation) Act, 1898, comes into operation on April 1st, 1899. In view of the importance of the Act to teachers, and all persons concerned with their employment, it has been thought desirable to explain, as clearly and shortly as may be, the nature and scope of its chief provisions.

I.

SCOPE OF THE ACT.

1. In order to be eligible for the benefits of the Act, a person must (i.) be a teacher who is recognised under the Education Code as a *certificated* teacher for public elementary schools; (ii.) serve in *recorded service*.

'Recorded service' is defined by Section 1 (5) of the Act, together with Rule 9 of the Rules under the Act; and the effect of the provisions made therein is to include as recorded service, service in the following capacities:—

- (a) Of a teacher in a Public Elementary Day School (including Schools for the Blind and Deaf certified by the Education Department, and Certified Efficient Schools).
- (b) Of a teacher in a Training College
- (c) Of an organising teacher
- (d) Of a teacher of a Central Class for Pupil-teachers
- (e) Of a teacher of a Central Class in any of the subjects in which the attendances of scholars are registered for the purpose of Article 12 (f.) of the Code.²
- (f) Of a teacher in a certified Reformatory or Industrial School.

Recorded service is also limited in point of the time during which it may continue; no service after a teacher attains the age of sixty-five years can be recorded service for the purpose of the Act.

2. Teachers serving in recorded service are divided by the Act into two classes—teachers certificated before April 1, 1899 (called in the Act 'existing teachers'), and teachers certificated after April 1, 1899, who, by way of distinction, will be denominated 'future teachers.' As the position of a teacher under the Act varies according to the class to which he or she belongs, it will be convenient to consider each class separately.

THE POSITION OF 'EXISTING TEACHERS' UNDER THE ACT.

Existing teachers have the option of accepting the Act (Section 5 (1)). This option must be exercised in all ordinary cases within six months from April 1, 1899,

¹ See the footnote on p. 713.

² The subjects named in Article 12 (f.) of the Code for 1903 are the following:—

Drawing.
Manual Instruction.
Science.
Physical Training.
Cottage Gardening.
Domestic Economy, Practical Cookery, Laundry Work, Dairy Work, Practical Housewifery.

Any other subject specially recognised by the Board of Education for the purposes of this Article.

and cannot under any circumstances be delayed longer than March 31, 1900 (Section 5 (1) and Rule 32).

It should be observed that all teachers recognised as certificated before April 1, 1899, whether they are at present serving or not, may accept the Act; and that the acceptance does not bind any teacher to resume service in the future, although it may be necessary for him to do so if he is to benefit under the Act.

A Form of Option, together with a detailed explanation of the provisions of the Act which specially affect existing teachers, may be obtained on application to the Secretary, Education Department, Whitehall, S.W.

It is desirable to call attention here to the effect of the acceptance upon the duration of the teacher's certificate. The certificate of a teacher who is 65 years of age or over at the date of his acceptance, and is eligible for the benefits of the Act, will expire on the date of his acceptance, unless the Education Department on account of his special fitness allows his service to continue for a further limited time, and subject to the same exception, the certificate of a teacher who is under 65 years of age at the date of acceptance, and who is eligible for the benefits of the Act, will expire on his 65th birthday.

THE POSITION OF 'FUTURE TEACHERS' UNDER THE ACT.

The provisions of the Act are obligatory upon every teacher certificated after 1st April 1899, so long as he serves in recorded service. He will not be recognised by the Education Department as a certificated teacher until the Department are satisfied of his physical capacity in the manner prescribed by the Rules made under the Act (Section 1 (1) and Rule 6); and his certificate will expire on his attaining the age of 65 years, or if the Education Department, on account of his special fitness, allow his service to continue for a further limited time, then on the expiration of that limited time (Section 1 (2) (a)).

II.

THE BENEFITS PROVIDED BY THE ACT.

The benefits for which the Act makes provision are of three kinds: the Annuity, the Superannuation Allowance, and the Disablement Allowance.

THE ANNUITY.

Every teacher, while serving in recorded service after 1st April 1899, must contribute to the Deferred Annuity Fund (Section 1 (2) (b)); and he may contribute to it for a break in his employment which does not exceed six months (Section 6 (1) (a)). The rate of contribution at present is £3 per annum for men, and £2 for women.¹ The contributions will in ordinary cases be deducted by the Department from the grant due to the school or institution in which the teacher is serving; and the Managers have the power to deduct the amount of the contribution from his salary. 'The receipt of the Education Department for the amount of a contribution paid by the employer of a teacher shall be a good discharge for the like amount of remuneration otherwise payable to the teacher' (Section 3 (1)).

Upon the teacher's attaining the age of 65 years, he will become entitled to such Annuity for the remainder of his life as is fixed by the Tables under the Act (Section 1 (2) (c)). The amount will depend on the number of his contributions and the various times at which they were paid; in order to ascertain it, the Tables should be consulted.

It should be clearly understood that no return of any kind can be made for a teacher's contributions, unless he lives to the age of 65 years. The only return which can be then made is the annuity due to himself. Under no circumstances whatever can the teacher or his relations have the contributions or any part of them returned in a lump sum. On the other hand, however few or broken a teacher's contributions

¹ See the note to §1 (3) of the Act, and to the Annuity Tables, *supra*, p. 734.

may have been, the annuity, to which they entitle him, will be payable upon his reaching the prescribed age, whether he is then in service or not.

THE SUPERANNUATION ALLOWANCE.

The Superannuation Allowance cannot become payable till a teacher has attained the age of 65 years, and it will be in addition to any Annuity to which he is entitled. Unlike the Annuity, however, it can only be obtained by a teacher whose years of recorded service upon his reaching the age of 65 are not less than half the number of years which have elapsed since he became certificated (Section 1 (2) (d)). Thus, a teacher who, at the age of 65, has been certificated for 44 years, must have served 22 years in recorded service, if any allowance at all is to be awarded to him. The years of service, however, need not be continuous, nor is a teacher obliged to remain in service up till the age of 65. As soon as he has completed the minimum amount of service required, he may, if he chooses, give up teaching. If he lives till the age of 65, the allowance due in respect of his recorded service will be paid to him.

The allowance is liable to forfeiture, suspension, or reduction, in cases of misconduct (Sections 8 and 10).

The rate at which the allowance is calculated varies according as the teacher is an existing or a future teacher. If he is a future teacher, it is calculated at the rate of ten shillings for each complete year of recorded service. If he serves 40 complete years, he may thus be granted an annual Superannuation Allowance of £20 for the remainder of his life. Any fractions of a year over the number of *complete* years served must be disregarded.

If he is an existing teacher, the rate of ten shillings may be augmented in the case of a man by threepence, and in the case of a woman by twopence, for each complete year of recorded service served before the commencement of the Act (Section 5 (2) (a)).

The effect of this provision is that the allowance for each year of service in the case of an existing teacher is—

For men, 10s. + 3d. × number of complete years of service before 1st April, 1899;

For women, 10s. + 2d. × number of complete years of service before 1st April, 1899.

The annual pension due to masters at the age of 65 will thus be found by adding to 10s. as many threepences as years of service previous to 1st April 1899, and multiplying the sum thus obtained by the total number of years of service, whether before or after 1st April 1899.

The annual pension due to mistresses will be found similarly, 2d. being substituted for 3d.

To illustrate this scale, suppose a total service of 40 complete years, then the annual allowance which will be obtained will be the sum entered in the following table, according to the varying length of service before the 1st April 1899.

Number of years served before 1st April, 1899, out of the total of 40 years.	STATE PENSION.					
	Masters.			Mistresses.		
	£	s.	d.	£	s.	d.
1	20	10	0	20	6	8
2	21	0	0	20	13	4
3	21	10	0	21	0	0
4	22	0	0	21	6	8
5	22	10	0	21	13	4
10	25	0	0	23	6	8
15	27	10	0	25	0	0
20	30	0	0	26	13	4
30	35	0	0	30	0	0
40	40	0	0	33	6	8

THE DISABLEMENT ALLOWANCE.

The Disablement Allowance is intended to meet the case of a teacher who, before reaching the age of sixty-five, has become permanently incapable, owing to infirmity of mind or body, of being an efficient teacher in a Public Elementary School (Section 2 (1) (c)). In order to satisfy the Treasury that this condition is fulfilled, he must submit to a medical examination, which, save in exceptional cases, will be conducted by an officer nominated by the Education Department. (Rule 16.)

In order to be eligible for the allowance, a teacher thus incapacitated must satisfy certain further conditions.

1. He must have served 'a number of years of recorded service not less than 10, 'and not less than half the years which have elapsed since he became certificated.' (Section 2 (1) (a)).

Thus a teacher in whose case 20 years or less have elapsed since he became certificated, must have actually served at least 10 years. If he has been certificated for 22 years, the minimum period of actual service which is required will be raised to 11 years; if for 40 years, to 20 years.

2. At the date of his application for a Disablement Allowance, he must not have been for more than the prescribed time unemployed in recorded service (Section 2 (1) (b)). In normal cases, the application must be made within one year from the date of the teacher's last employment in recorded service, though an extension of this time may be granted under exceptional circumstances. (Rule 20.)

3. He must produce evidence to show that he is not subject to certain disqualifications (Section 2 (1) (d)), which are prescribed by Rule 21, as follows:—

- '(1) A teacher shall be disqualified for the grant of an allowance if he is not in 'pecuniary need of it, and shall be disqualified for a grant of part of a 'allowance if he is not in pecuniary need of that part.
- '(2) A teacher shall be disqualified for the grant of an allowance if his infirmity 'has been wholly caused by his own misconduct or default, and if his 'infirmity, though not wholly so caused, has been increased by his own 'misconduct or default, shall be disqualified for the grant of such part of 'the allowance as the Treasury think fit.
- '(3) A teacher who is a woman, and has married since her last employment in 'recorded service, shall be disqualified for the grant of an allowance.'

If these conditions are satisfied, the annual allowance which a teacher can obtain will be on the following scale:—

- (a) If the teacher is a man, twenty pounds for ten complete years of recorded service, with the addition of one pound for each complete additional year of recorded service; and
- (b) If the teacher is a woman, fifteen pounds for ten complete years of recorded service, with the addition of thirteen shillings and fourpence for each complete additional year of recorded service.

Thus a man who has served twenty complete years before breaking down may obtain £30 as his annual allowance; and a woman, who has served the same period, £21, 13s. 4d. Under no circumstances, however, can the Disablement Allowance exceed the total annual sum which the teacher might obtain from an Annuity and Superannuation Allowance under the Act, by continuing to serve until the age of 65 years.

A Disablement allowance will be reconsidered by the Treasury every three years, when the teacher must produce evidence to show that he is still qualified to retain it (Section 2 (3), and Rule 24). If he is, then or at any other time, found not to be so qualified, or if he is guilty of misconduct, it may be suspended, reduced or forfeited (Sections 8 and 10, and Rule 23 (1)).

It should be observed, finally, that a teacher who is in receipt of a Disablement Allowance is excluded from obtaining any other benefit under the Act. If he still retains his allowance at the age of 65 years, no Annuity or Superannuation Allowance can be paid to him (Section 2 (2)).

The attention of School Managers is specially directed to the passages on p. 2 of this Memorandum, which deal with the expiration of the certificates of teachers and the mode of payment of their contributions by deduction from the grant. It is not proposed to begin such deductions before October 1899.

ELEMENTARY EDUCATION (INDUSTRIAL SCHOOLS) ACT, 1879.

42 & 43 Victoria, Chap. 48.

AN ACT to amend the Law respecting the Powers of
School Boards in relation to Industrial Schools.

[11th August 1879.]

WHEREAS under the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, a school board have power, with the consent of one of Her Majesty's Principal Secretaries of State, to establish, build, and maintain industrial schools, and to spread the payment of the expense of such establishment and building over a number of years not exceeding fifty, and to borrow money for that purpose :

And whereas a school board, under the said Acts, have the same power as is given to a prison authority by section twelve of the Industrial Schools Act, 1866, to contribute money towards the alteration, enlargement, or rebuilding of an industrial school, or towards the establishment or building of an industrial school, or towards the purchase of land required for the use or for the site of an industrial school :

And whereas under the Reformatory and Industrial Schools Act Amendment Act, 1872, section twelve of the Industrial Schools Act, 1866, is extended to authorise the prison authority themselves to undertake anything towards which they are authorised by that section to contribute :

And whereas doubts have arisen whether a school board have power to undertake themselves anything towards which they are authorised as above mentioned to contribute or have power to spread the payment of the amount of any such contribution or of the cost of any such undertaking over a number of years, and to borrow money for that purpose, and it is expedient to remove such doubts :

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Short Title.

1. This Act may be cited as the Elementary Education (Industrial Schools) Act, 1879.

This Act and the Elementary Education Act, 1870 and 1873, and the

740 ELEMENTARY EDUCATION (INDUSTRIAL SCHOOLS) ACT, 1879.

*Elementary Education Act, 1876, may be cited together as the Elementary Education Acts, 1870 to 1879.*¹

¹ The words in italics were repealed by the Statute Law Revision Act, 1894.

*Extension to School Board of 29 & 30 Vict. c. 118 ; 33 & 34 Vict. c. 75 ;
36 & 37 Vict. c. 86 ; 39 & 40 Vict. c. 79.*

2. A school board shall have power themselves to undertake any thing towards which they are authorised by the Industrial Schools Act, 1866, as applied by the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, or any of them, to contribute, subject nevertheless to the like consent as is required in the case of any such contribution.

Power of School Board to borrow for Contribution towards, or undertaking Cost of enlarging, etc., an Industrial School.

3. Where a school board resolve to contribute any sum of money towards or to undertake the cost of the alteration, enlargement, or rebuilding, but not of the furnishing of an industrial school, or the establishment or building, but not of the furnishing, of a school intended to be an industrial school, or the purchase of land required either for the use of an existing industrial school, or for the site of a school intended to be an industrial school, such school board, with the consent of one of Her Majesty's Principal Secretaries of State, shall have the same power of spreading the payment of the sums so contributed, or of the cost of such undertaking, over a number of years, and of borrowing money for that purpose, as they have in the case where they resolve to establish an industrial school; and the provisions of the Elementary Education Acts, 1870 and 1873, and the Elementary Education Act, 1876, and the Public Works Loans Act, 1875, shall apply accordingly.

For the purposes of this Act an industrial school means a certified industrial school and a certified day industrial school.

Power of Guardians to contribute to maintenance of Child in Industrial School.

4. Where a child is ordered upon complaint made by a school attendance committee to be sent to a certified industrial school, the council, guardians, or sanitary authority appointing such committee shall have, on the recommendation of the committee, the same power of contributing toward the maintenance of such child in the said school as if they were a school board, and the contribution by such guardians shall require the like consent as is required under section thirty-one of the Elementary Education Act, 1876, to any other expense incurred by a school attendance committee.

The expenses of any such contribution shall be paid in like manner as the expenses of the school attendance committee, on whose recommendation the contribution is made, are paid in pursuance of the Elementary Education Act, 1876.

APPENDIX

TO THE

ELEMENTARY EDUCATION (INDUSTRIAL SCHOOLS) ACT, 1879.

Powers respecting Industrial Schools of prison authorities, school boards, and councils of counties, boroughs (including county boroughs), and urban districts.

Between 1866 and the present date industrial schools have been regulated by two sets of Acts, namely the Industrial Schools Acts, and the Elementary Education Acts. In the main the former have regulated the powers respecting industrial schools of 'prison authorities,' and the latter have regulated the powers of school boards.

At the present time county councils, and councils of quarter-sessions boroughs with a population according to the census of 1881 of not less than ten thousand, possess, in virtue of the Local Government Act, 1888, the powers of prison authorities under the Industrial Schools Acts, though in boroughs in which there is a school board these powers have been affected, or have been liable to be affected, by the provisions of §27 of the Elementary Education Act, 1870, as amended by §8 of the Reformatory and Industrial Schools Acts Amendment Act, 1872.

Under the Education Act, 1902, the powers of school boards under the Elementary Education Acts will be transferred to the councils which are local education authorities for the purpose of Part III. of that Act, namely to county and county borough councils, and to councils of boroughs with a population, according to the census of 1901, of over ten thousand, and of urban districts with a population, according to the same census, of over twenty thousand.

Speaking generally, therefore, one result of the Education Act, 1902, will be that county councils and the councils of boroughs (including county boroughs) with a population of over ten thousand will henceforward have powers respecting industrial schools arising from both the Industrial Schools Acts and the Elementary Education Acts, while the councils of urban districts with a population of over twenty thousand will have powers respecting these schools arising from the Elementary Education Acts only.

Powers of Councils.

The following statement, which is based upon the summary contained in Appendix III. to the report of the Departmental Committee of 1896 on Reformatory and Industrial Schools, shows the powers

- (i.) of county councils, county borough councils, and councils of boroughs with a population, according to the census of 1881, of not less than ten thousand, acting as prison authorities (but as to boroughs where there has been a school board, *see* the note at the end of this statement),
- (ii.) of county councils, county borough councils, councils of boroughs with a population, according to the census of 1901, of over ten thousand, and councils of urban districts with a population, according to the same census, of over twenty thousand, acting as the successors of school boards.

The powers which councils may exercise as prison authorities are, it will be seen, similar in most respects to those which they will be able to exercise as the successors of school boards, but, besides such minor differences as there are between the two sets of powers, it must be remembered in the case of a county council that when they act in the latter capacity their expenses will be payable out of the county fund, subject to the proviso that they are prohibited from raising any sum on account of such expenses within any borough or urban district the council of which is the local education

authority for the purpose of Part III. of the Education Act, 1902. See §18 (1) (b) of that Act (p. 123).

[For the sections of the Acts to which reference is made, see pp. 744-746]

(i.) Powers of council (as above) *acting as prison authority.*

The council have power—

A. [Industrial Schools Act, 1866, §12] to contribute towards the—

- | | | |
|-----------------------|---|---|
| 1. Alteration | } | of a certified industrial school. |
| 2. Enlargement | | |
| 3. Re-building | | |
| 4. Support of inmates | | |
| 5. Management | } | of a school intended to be a certified industrial school. |
| 6. Establishment | | |
| 7. Building | | |
| 8. Purchase of land— | | |

(a) For use of an existing certified industrial school.

(b) For establishment of a school intended to be a certified industrial school.

Proviso :—

1. In every case two months' notice has to be given by the council of their intention to take into consideration at a certain time and place the making of such contribution.

This proviso however, by §9 of the Youthful Offenders Act, 1901, does not apply to a contribution of a weekly payment towards the maintenance of a child in any industrial school.

2. In case of town council, an order has to be made at a special meeting.

3. When the contribution is for—

- | | | |
|----------------------|---|------------|
| 1. Alteration | } | of school. |
| 2. Enlargement | | |
| 3. Rebuilding | | |
| 4. Establishment | | |
| 5. Building | | |
| 6. Purchase of Land, | | |

the consent of the Secretary of State must be obtained.

B. [Industrial Schools Act, 1866, §36]. To contract for the reception and maintenance of children from their district.

C. [Reformatory and Industrial Schools Acts Amendment Act, 1872, §7]. To undertake anything towards which they are authorised by §12 of the Industrial Schools Act, 1866, to contribute.

D. [Reformatory and Industrial Schools Acts Amendment Act, 1872, §9]. To contribute towards the ultimate disposal of any inmate of a certified industrial school established by the council.

E. [Prisons Authorities Act, 1874, §2]. To borrow, subject to the provisions of the Elementary Education Act, 1870,¹ and with the consent of the Secretary of State—

For defraying
„ contributing towards } the expense of—

- | | | |
|--------------------|---|----------------|
| 1. Altering | } | of any school. |
| 2. Enlarging | | |
| 3. Rebuilding | | |
| 4. Establishing | | |
| 5. Building | | |
| 6. Purchasing site | | |

Principal and interest to be repaid within thirty years.

F. [Elementary Education Act, 1876, §16]. To exercise the same powers in relation to a certified industrial school.

G. [Youthful Offenders Act, 1901, §8]. To contribute—if a county council—to the ultimate disposal of a child, or young person, to whose support in an industrial school they have contributed.

¹ The reference appears to be to §27 of the Elementary Education Act, 1870, by which the powers respecting industrial schools are in a borough given to the school board to the exclusion of the 'prison authority.'

(ii.) POWERS of council (as above) *acting as successor of school board.*

I. [Elementary Education Act, 1870, §28, as amended by Elementary Education Act, 1876, §15]. The council may, with the consent of the Secretary of State—

Establish
Build
Maintain } a certified industrial school.

and for this purpose have the same powers as they have for providing sufficient public elementary school accommodation for their district. *See* §§19, 20, and 21 of the Elementary Education Act, 1870, and as to borrowing for this purpose *see* §15 of the Elementary Education Act, 1876, which is repealed, as to part thereof, by Schedule IV. of the Education Act, 1902, and, as to the remaining part, is applied with modifications by Schedule III. (8) of that Act (p. 181).

II. [Elementary Education Act, 1870, §27, as amended by Elementary Education Act, 1873, §14]. The council have, subject to §8 of the Reformatory and Industrial Schools Acts Amendment Act, 1872, the same power to contribute as a prison authority has under §12 of the Industrial Schools Act, 1866 (not, it is to be observed, the power which the prison authority has under §36 of the same Act, to contract for the reception and maintenance of the inmates). The power of the prison authority under §12 of the Industrial Schools Act, 1866, is that set forth under (i.) A., *supra*.

Proviso—

1. In every case fourteen days' notice is to be given by the school board of their intention to take into consideration at a certain time and place the making of such contribution.

This proviso, however, by §9 of the Youthful Offenders Act, 1901, does not apply to a contribution of a weekly payment towards the maintenance of a child in any industrial school.

2. When the contribution is for the

1. Alteration
2. Enlargement
3. Rebuilding
4. Establishment
5. Building
6. Purchase of Land } of a school.

the consent of the Secretary of State has to be obtained.

III. [Elementary Education Act, 1876, §16]. The council have the same powers in relation to a certified day industrial school, as they have in relation to a certified industrial school.

IV. [Elementary Education Act, 1876, §14]. The council, if they are the managers of a certified industrial school, where a child is sent to the school on their complaint or representation under the Elementary Education Act, 1876, may, if they think fit, conditionally give him a licence to live out of school, after the expiration of one month after he has been so sent to the school, instead of after the expiration of the period (18 months) specified in §27 of the Industrial Schools Act, 1866. This provision enabled school boards to establish the kind of industrial schools known as truant schools.

V. [Elementary Education (Industrial Schools) Act, 1879, §2]. The council have power to undertake anything to which they are authorised to contribute by the Industrial Schools Act, 1866, as applied by the Elementary Education Acts, 1870, 1873, and 1876, subject to the like consent as is required in the case of any contribution.

VI. [Elementary Education (Industrial Schools) Act, 1879, §3]. Where the council resolve :—

(a) to contribute towards—

(b) to undertake—

1. Cost of alteration
" enlargement
" re-building } of an industrial or day industrial school,

2. Cost of establishing } a school intended to be an industrial or day
 } building } industrial school,
3. Purchase of land for use of an existing industrial or day industrial school or for the site of a school intended to be an industrial or day industrial school,

The council are, with the consent of the Secretary of State, to have the same power of—

(a) spreading the payment over a number of years,

(b) borrowing,

as they have in the cases where they resolve to establish an industrial school (*see* I. above). The cost of furnishing has to be defrayed out of income.

VII. [Elementary Education Act, 1900, §4]. The council may pay the expenses of conveying to or from a certified industrial school any child committed under the Elementary Education Acts at their instance, and when they contribute under those Acts to the support of a child in an industrial school they may contribute to the ultimate disposal of the child.

Exceptional Case.

As to the powers of a council of a borough where there has been a school board *see* §27 of the Elementary Education Act, as amended by §8 of the Reformatory and Industrial Schools Acts Amendment Act, 1872.

Sections of Acts.

The following are the sections of the Acts referred to in the foregoing statement :—

Industrial Schools Act, 1866 (29 & 30 Vict. c. 118).

§12. In England a prison authority may from time to time contribute such sums of money, and on such conditions as they think fit, towards the alteration, enlargement, or rebuilding of a certified industrial school,—or towards the support of the inmates of such a school,—or towards the management of such a school,—or towards the establishment or building of a school intended to be a certified industrial school,—or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school; provided,—

First, that not less than two months' previous notice of the intention of the prison authority to take into consideration the making of such contribution, at a time and place to be mentioned in such notice, be given by advertisement in some one or more public newspaper or newspapers circulated within the district of the county or borough, and also in the manner in which notices relating to business to be transacted by the prison authority are usually given.

Secondly, that where the prison authority is the council of a borough, the order for the contribution be made at a special meeting of the council :

Thirdly, that where the contribution is for alteration, enlargement, rebuilding, establishment, or building of a school or intended school, or for purchase of land, the approval of the Secretary of State be previously given for that alteration, enlargement, rebuilding, establishment, building or purchase.

In Scotland a county board may contribute to any certified industrial school with the consent and in the manner provided by The Prisons (Scotland) Administration Act, 1860, respecting contributions to reformatories.

§27. The managers of a school may, at any time after the expiration of eighteen months of the period of detention allotted to a child, by licence under their hands, permit him to live with any trustworthy and respectable person named in the licence, and willing to receive and take charge of him.

Any licence so granted shall not be in force for more than three months, but may at any time before the expiration of those three months be renewed for a further period not exceeding three months, to commence from the expiration of the previous period of three months, and so from time to time until the period of the child's detention is expired.

Any such licence may also be revoked at any time by the managers of the school by writing under their hands, and thereupon the child to whom the licence related may be required by them, by writing under their hands, to return to the school.

The time during which a child is absent from a school in pursuance of a licence shall, except where such licence has been forfeited by his misconduct, be deemed to be part of the time of his detention in the school, and at the expiration of the time allowed by the licence he shall be taken back to the school.

A child escaping from the person with whom he is placed under a licence, or refusing to return to the school on the revocation of his licence, or at the expiration of the time allowed thereby, shall be deemed to have escaped from the school.

§36. In England a prison authority may contract with the managers of a certified industrial school for the reception and maintenance therein of such children as are from time to time ordered by justices to be sent there from the district of the prison authority.

Elementary Education Act, 1870 (33 & 34 Vict. c. 75).

§27. [See p. 228].

§28. [See p. 228].

Reformatory and Industrial Schools Acts Amendment Act, 1872 (35 & 36 Vict. c. 21).

§7. Whereas by section twelve of 'The Industrial Schools Act, 1866,' it is provided that 'a prison authority in England may from time to time contribute such sums of money, and on such conditions, as they think fit towards the alteration, enlargement, or rebuilding of a certified industrial school, or towards the support of the inmates of such school, or towards the management of such a school, or towards the establishment or building of a school intended to be a certified industrial school, or towards the purchase of land required either for the use of an existing certified industrial school, or for the site of a school intended to be a certified industrial school,' subject to the provisos therein contained: Be it enacted, that the said section shall extend to authorise the prison authority themselves to undertake anything towards which they are authorised by that section to contribute; and 'The Industrial Schools Act, 1866,' shall be construed as if in the said section, so far as it relates to England, the expression 'contribute towards' and 'contribution' included respectively 'undertake' and 'undertaking'; and the expenses of a prison authority in England incurred in pursuance of this section shall be defrayed accordingly.

§8. Whereas by section twenty-seven of 'The Elementary Education Act, 1870,' it is enacted that upon the election of a school board in a borough, the council of that borough should cease to have power to contribute under section twelve of 'The Industrial Schools Act, 1866,' be it enacted, that the said enactment shall extend to all powers conferred on a prison authority by this part of this Act, and the date at which the power of a prison authority of a borough, who have during not less than six months before the election of a school board in such borough contributed to or maintained any industrial school, ceases in pursuance of the said enactment, shall be and be deemed always to have been the date at which the school board in the borough resolve, in the manner and with the approval (if any) provided by section twelve of 'The Industrial Schools Act, 1866,' to contribute, in pursuance of that section, to the industrial school to which the prison authority have so contributed, or as the case may be, resolve, under the provisions of and with the consent required by 'The Elementary Education Act, 1870,' to maintain such industrial school; provided that any such industrial school which was so maintained by the prison authority may, notwithstanding any such resolution, continue to be maintained by the prison authority, unless they agree to transfer such school to the school board.

§9. A prison authority in England may contribute towards the ultimate disposal of any inmate of a certified industrial school established by such authority in pursuance of this part of this Act, and the expenses incurred by a prison authority in England in pursuance of this section shall be deemed to be expenses incurred by such authority in carrying into effect the provisions of the Industrial Schools Act, 1866.

Elementary Education Act, 1873 (36 & 37 Vict. c. 86).

§10. [See p. 268.]

§14. [See p. 270.]

Prisons Authorities Act, 1874 (37 & 38 Vict. c. 47).

§2. Subject to the provisions of 'The Elementary Education Act, 1870,' any prison authority may, with the approval of one of Her Majesty's Principal Secretaries of State, borrow money for the purpose of defraying or contributing towards the expense of altering, rebuilding, enlarging, establishing, building, or purchasing the site of any industrial or reformatory school under the said Industrial and Reformatory Schools Acts, or any of them.

Elementary Education Act, 1876 (39 & 40 Vict. c. 79).

§14. [See p. 287.]

§15. [See p. 288.]

§16. [See p. 288.]

Elementary Education (Industrial Schools) Act, 1879 (42 & 43 Vict. c. 48).

§2. [See p. 740.]

§3. [See p. 740.]

Elementary Education Act, 1900 (63 & 64 Vict. c. 53).

§4. [See p. 328.]

Youthful Offenders Act, 1901 (1 Edw. 7, c. 20).

§8. A county council which has contributed to the support of a child or young person in a reformatory or industrial school may contribute to the ultimate disposal of the child or young person.

§9. Where a local authority acting in pursuance of the Acts relating to reformatory or industrial schools, or the Elementary Education Acts, 1870 to 1900, agree to contribute a weekly payment towards the maintenance of any child in any reformatory or industrial school, the requirements of the first proviso to section twelve of the Industrial Schools Act, 1866, and section twenty-eight of the Reformatory Schools Act, 1866, and of section fourteen of the Elementary Education Act, 1873 (relating to previous notice of intention to contribute), shall not apply to such contribution.

Reformatory Schools.

With regard to reformatory schools, which differ little from industrial schools except in the age and degree of criminality of their inmates, all powers in respect of these schools are exercisable by councils having the powers of a prison authority. School boards had no powers in respect of reformatory schools under the Elementary Education Acts, and those councils which are local education authorities for the purpose of Part III. of the Education Act, 1902, will therefore have no powers in virtue of that Act which they do not already possess.

SCHOOL BOARD CONFERENCE ACT, 1897.

60 & 61 Victoria, Chap. 32.

AN ACT to provide for Expenses incurred by School Boards in relation to School Board Conferences. [6th August 1897.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

Payment of School Board Conference Expenses.

1.—(1.) The school board of any district may, subject to regulations made by the Education Department under this Act, pay out of the school fund—

(a) the reasonable expenses of any members of the board, or of the clerk to the board, in attending any conference of school boards held for the purpose of discussing any matter connected with the duties devolving upon them; and

(b) any reasonable annual or other subscription towards the expenses of the conference.

(2.) A school board shall not pay under this Act the expenses of more than three persons attending a school board conference.

(3.) The Education Department may make such regulations as they think fit for regulating payments and the amount of payment by school boards under this Act.

(4.) Expressions used in this Act have the same respective meanings as they have in the Elementary Education Acts, 1870 to 1893.¹

¹ County councils and urban district councils have statutory powers of paying the expenses of conferences such as those referred to in this Act.

The County Councils Association Expenses Act, 1890 (53 Vict. c. 3), after reciting that an association of county councils has been formed for the purpose of consultation as to their common interests and the discussion of matters relating to local government, provides that the council of an administrative county may pay out of the county fund, as general expenses incurred by them in the execution of their duties under the Local Government Act, 1888, any sum not exceeding £31, 10s. in any one year, as an annual or other subscription to the funds of the association, as well as any reasonable expenses of the attendance of representatives, not exceeding in any case four, at meetings of the association.

The Public Health and Local Government Conferences Act, 1885 (48 & 49 Vict. c. 22), provides for conferences of local authorities (as defined in the Public Health Act, 1875, viz. urban sanitary authorities and rural sanitary authorities—but exclusive of urban

authorities of boroughs) paying the reasonable expenses of any members or their clerk attending any conference held to discuss matters connected with the duties which devolve on them, and purchasing reports of the proceedings of such conferences, when empowered by regulations made by the Local Government Board. An order of that Board, dated the 13th May, 1891, provides that in the case of a central conference, not more than two members, or, if the district is more than fifty miles from the place of meeting, not more than one member, may be allowed expenses in addition to the clerk, and that in the case of a conference convened for an area including the district, it must be held at a place not more than one hundred miles from the district.

No similar provision has been made to meet the case of the councils of boroughs which subscribe from their funds to the expenses of the Association of Municipal Corporations, but hitherto no practical inconvenience has been found to arise. Under §18 (3), however, of the Education Act, 1902, the accounts of the receipts and expenditure of the council of a borough under that Act will be subject to audit by the district auditor, and, since the district auditor has recently disallowed the subscription of one of the metropolitan borough councils to the Association of Municipal Corporations, it may be necessary for the councils of boroughs wishing to hold conferences in connection with their duties under the Education Act to avail themselves for the purpose of the provisions of the School Board Conference Act.

Short Title.

2. This Act may be cited as the School Board Conference Act, 1897.

TREASURY GRANTS TO UNIVERSITY COLLEGES.

The following MEMORANDUM and MINUTES show the origin, conditions, and present allocation of the Treasury grant to University Colleges in Great Britain.

I. Memorandum of the Lord President of the Council and the Chancellor of the Exchequer, dated 1st March 1889.

The Government have decided to put down a sum of £15,000 in the estimates of the year 1889-90 to be distributed in grants in aid to University Colleges in Great Britain.

The class of colleges which it is intended to benefit are the growth of recent years, and have sprung up to meet the demand for higher education in great centres of population among persons who cannot afford to spend two or three years in study at the old universities. The distinguishing feature of these institutions is that they give teaching of a university standard in arts and science, and are located in populous districts.

Experience has shown that institutions of this character rarely thrive without substantial pecuniary assistance to supplement the amount they earn in fees. The university colleges of Great Britain are modern institutions, which have not, like the old universities, grown rich through the accumulated endowments of centuries, and the income they derive from subscriptions and, in some cases, grants out of local public funds, does not suffice to fill the gap between the sums paid in fees and the necessary expenses of a university college. All of them, with the possible exception of Owens College, Manchester, are in pecuniary straits; some of them are on the verge of financial collapse, and that though they are doing an educational work of some value, and have been founded and hitherto maintained by considerable local efforts. It is true that no aid which the state would be justified in giving would be sufficient to preserve from extinction any such institution the revenue of which from fees, endowments, and local contributions, was hopelessly inadequate for its maintenance. But what even a moderate amount of state aid can do, if given in the right manner, is (1) to appreciably strengthen the financial position, especially of the newer and poorer colleges, in the beginning of their struggle for existence, (2) to stimulate local munificence to renewed and greater efforts in view of the national recognition of the importance of the institutions which it is called upon to support.

But, while it is easy to make out a case for a moderate grant in aid of University Colleges, it is very difficult to determine the amounts in which the sum fixed upon is to be distributed amongst the various claimants, and the principles which should determine that distribution.

The claimants are,—

In England :—

1. King's College,	London.
2. University College,	London.
3. Owens College,	Manchester.
4. Mason's College,	Birmingham.
5. Firth College,	Sheffield.
6. The Yorkshire College,	Leeds.
7. University College,	Liverpool.
8. University College,	Bristol.
9. University College,	Nottingham.
10. The Durham College of Science,	Newcastle-on-Tyne.
11. The Hartley Institute,	Southampton.

In Scotland :—

12. University College,	Dundee.
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The claimants are confined to England and Scotland, as in Ireland there are already the Queen's Colleges, not to mention other institutions of an academic character receiving assistance from the state, while the three Welsh colleges, Cardiff, Bangor, and Aberystwith, already draw the large grant of £4000 a year each. The number of claimants in England is out of all proportion to that in Scotland, but then it must be remembered that the universities proper of the latter country are more numerous than

those of the former, are situated in great centres of population, and therefore cheaper and more accessible, and already receive substantial assistance from the state.

It is impossible for ministers to undertake the detailed investigation necessary to determine whether all, and, if not all, which of the institutions above named are entitled to participate in the grant of £15,000, and in what proportions it ought to be distributed amongst them. It has accordingly been decided that the Lord President of the Council and the Chancellor of the Exchequer should nominate a small Committee of men well versed in academic questions, to elaborate a plan for the distribution of the grant. It is not proposed to bind the discretion of the Committee as to the scheme to be proposed by any stringent rules. At the same time it is the opinion of the Lord President and the Chancellor of the Exchequer that the following considerations must be of especial weight in determining the amount to be allotted to any particular institution:—

1. The quality of the teaching.
2. The amount of work done, as tested by the number of students, and the average number of lectures attended by each student, and also, perhaps, the amount of additional work that might be fairly demanded in return for the assistance given by the State, especially in the shape of evening lectures accessible to those who, owing to other occupations, are unable to devote the whole of the day to study.
3. The income of the institution, from whatever source derived, and the amount by which it falls short of its necessary expenditure, or would fall short of it, if the fees charged were such as the class of students who were likely to belong to it might reasonably be expected to pay.
4. The proportion of income to the average number of students.
5. The amount of pecuniary support given to the institution locally, whether by private subscriptions or out of local public funds.

The last-named consideration is of the greatest importance. The object of the grant is to supplement and encourage local effort, and it might even be desirable to grant sums to the colleges to be supported, or to some of them, on condition of local contributions being forthcoming to a certain amount.

An important point to be considered by the Committee is whether, in calculating the number of students or the income of any college, the medical faculty and the fees paid by medical students should be taken account of. It will probably be desirable to exclude them, and to have regard only to the arts and science branch of the work of the colleges.

(Signed) CRANBROOK.
G. J. GOSCHEN.

1 March 1889.

In accordance with the foregoing Memorandum a committee was appointed by Treasury Minute dated 11th March 1889, to assist in determining the allocation of the grant of £15,000, and the recommendations of the committee were substantially adopted by the Treasury Minute of the 1st July 1889.

II. *Treasury Minute, dated the 1st July 1889.*

My Lords have had under their consideration the Report of the Committee appointed to advise the Government with reference to the distribution of the sum of £15,000 which Parliament is to be asked to grant for 'University Colleges in Great Britain.'

The Committee state in their Report that the sum assigned by them to each college is made up of two items: (a) a fixed sum to each college, together with a grant to the college for each professor or head of a department, and (b) a percentage on the total amount of local subscriptions and students' fees.

My Lords believe that this system of distribution takes just account of the main factors which should, under existing circumstances, determine the share to be received by each University College out of any sum granted by Parliament, and is a reasonable application of the general principles laid down in the memorandum of the Lord President and the Chancellor of the Exchequer. They accordingly accept the allocation of the grant of £15,000 for the present year as proposed by the Committee, viz. :—

Owens College, Manchester,	£1,800
University College, London,	1,700
King's College, London,	1,700
Liverpool University College,	1,500
Mason College, Birmingham,	1,400

Yorkshire College, Leeds,	£1,400
Nottingham University College	1,400
Bristol University College,	1,200
Durham College of Science (Newcastle-on-Tyne),	1,200
Firth College, Sheffield,	1,200
Dundee University College,	500

My Lords recognise that the present allocation of the money is more or less experimental, and that experience may show that greater or less weight ought to be attached to one or other of the various items, such as extent of endowment, amount of fees, amount of local subscriptions, etc., upon a comparison of which in the different colleges the Committee have based their recommendations. In any case the relative claims of the several colleges upon the total grant will vary from time to time, and the allocation of that grant ought therefore to be subject to periodical revision. My Lords indeed feel that it would not be desirable to alter the amount of the subsidies received by the different colleges with such frequency as to produce constant uncertainty in their financial outlook. But neither would it seem wise so to stereotype those subsidies as to remove the incentive, which they ought to afford to the spirit of self-help on the part of the colleges and their supporters. My Lords are of opinion that adequate regard would be had to both these considerations if the distribution of the grant of £15,000, should Parliament see fit to continue it, were liable to be reviewed every five years.

The above remarks as to periodical revision do not, of course, apply to the University College of Dundee, inasmuch as, in accordance with the recommendations of the Committee, my Lords regard the grant to that institution as confined, in any case, to the present year.

My Lords approve of the suggestion of the Committee that 'a person representing the Government should visit each college from time to time, not with a view of examining the students, but to inspect the buildings and laboratories and to become personally acquainted with the extent of the different courses of study.' The exact method of carrying out this recommendation is, however, a matter for future discussion between the Education Department and the Treasury.

In addition to such periodical inspection, which my Lords believe will be welcomed by the colleges, it would seem reasonable to require that each college, as long as it continues to receive state assistance, should furnish annually to the Education Department a statement showing the result of the last academic year's work, and that such statement should contain, in particular, the number of professors and students, and the average number of lectures attended by each student; the state of the college finances, distinguishing under the head of receipts between subscriptions, interest on endowments, fees, and other sources of revenue, together with such other information as might supply a general view of the academic achievements and financial position of the college.

The continued participation of any particular institution in the grant for 'University Colleges in Great Britain,' must, of course, depend upon the evidence forthcoming, in either of the above ways, or otherwise, of its continuing adequately to discharge the duties which the title 'University College' implies. While my Lords are of opinion that a general review, and, if need be, redistribution of the grant should not be undertaken oftener than once in five years, they are anxious clearly to establish the principle, that no college is to be regarded as having a vested right to share, even for a limited number of years, in the sums voted by Parliament. On the contrary, each college should be considered as liable to be excluded at any time from further participation in the grant, if it should appear to the Treasury and the Education Department that, owing to inadequacy of educational equipment, to a great falling off in the number of its students, or to any other cause, it had ceased to be deserving of support from the National Exchequer. But, of course, any proposed change in the distribution of the grant will not take effect until it has been brought to the notice of Parliament in connection with the estimate.

In conclusion, my Lords desire to express their sense of the services rendered by the Committee, to whom the thanks of Her Majesty's Government are due for their careful investigation of the claims of the several colleges, and for the valuable suggestions contained in their Report.

An administrative and educational inspection of University Colleges in receipt of the grant, and of other institutions claiming to participate therein, was conducted, by direction of the Treasury, in 1896, and the total grant was increased to £25,000.

A similar inspection was conducted in 1901, and the Treasury approved the continued distribution of

the grant of £25,000 among the colleges then receiving it, and the provision of a further sum of £2,000 for distribution among new colleges in the event of their becoming eligible to receive a grant. The allocation of this grant was settled by the Treasury Minute of the 16th June 1902.

III. *Treasury Minute of 16th June 1902.*

My Lords read the Report of the 10th instant from the Committee appointed by Treasury Minute of 14th February last to advise this Board as to the reapportionment of the grant of £25,000 between the University Colleges which already receive it, and as to the distribution of a further sum of £2,000 between new colleges in the event of their becoming eligible to share in it.

My Lords accept the apportionment which the Committee propose, viz. :—

The Owens College, Manchester,	£3,500
University College, London,	3,000
University College, Liverpool,	3,000
The University of Birmingham,	2,700
King's College, London,	2,300
The Yorkshire College, Leeds,	2,300
Durham College of Science,	1,800
University College, Nottingham,	1,700
University College, Sheffield,	1,300
Bedford College, London,	1,200
University College, Bristol,	1,200
University College, Dundee,	1,000
	<hr/>
	25,000
Hartley College, Southampton (when qualified),	1,000
University College, Reading (when qualified),	1,000
	<hr/>
	27,000

As regards the Hartley College, Southampton, and the University College, Reading. My Lords accept the Committee's recommendation that the accounts of these colleges should be inspected at the close of the year, and that a grant of £1,000 should be made to each if, in the result, the necessary financial requirements are satisfied. Those requirements are—

- (i.) A total local income for Arts and Science of at least £4,000 a year, and
- (ii.) A receipt from fees in the same subjects of at least £1,500 a year.

My Lords take note of the statement quoted by the Committee from Mr. Higgs's report that at some colleges 'donations for scholarship purposes,' instead of being treated 'as capital, have been drawn upon for current expenditure until the corpus of the fund 'has wholly disappeared.' Their Lordships accept the Committee's recommendation that these colleges should be requested, as a condition of their grants, to reconstitute these scholarship funds and to keep them intact.

They also accept the recommendations—

- (i.) That each college sharing in the grant should acquire a legal personality by incorporation,
- (ii.) That the apportionment should be for a term of five years, and that a further inspection should be made before the end of that term.

In conclusion My Lords desire to record their appreciation of the valuable services which the Committee has rendered to Them.

Provision is made for a total grant of £27,000 in the Estimates presented to Parliament for 1903-1904.

Most of these colleges include a training department for elementary school teachers, recognised by and receiving grants from, the Board of Education under Part II. of the Day School Code. (See Articles 111, 112, and 127.) Most of them also are aided by county or county borough councils out of the 'residue grant' available under the Local Taxation (Customs and Excise) Act, 1890.

LONDON EDUCATION BILL, 1903.

A BILL to extend and adapt the Education Act, 1902, to London.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

Application of Education Act, 1902, to London.

1. The Education Act, 1902 (in this Act referred to as the principal Act), shall, so far as applicable, and subject to modifications made by this Act, apply to London.

Education Committee.

2. The education committee of the local education authority shall be constituted in manner provided by the First Schedule to this Act.

Powers of Borough Councils.

3.—(1) The council of each metropolitan borough shall be the managers of all public elementary schools provided by the local education authority within their borough, and, subject to any general directions given by the local education authority and to the power of that authority to determine the number, qualifications, and salaries of teachers, shall exercise and perform the powers and duties of management as respects those schools (including the power of appointing and dismissing teachers in those schools and the custody of the buildings).

If any question arises whether any power may be exercised or any duty is to be performed by the council of a metropolitan borough as a matter of management under this section, that question shall be determined by the Board of Education, and if at any time the local education authority satisfy the Board of Education that the council of any metropolitan borough have failed properly to exercise or perform their powers and duties under this section, the Board may, by order, enable the local education authority to take over from the council those powers and duties for such time and subject to such conditions or exceptions as the Board determine.

(2) The site of any new public elementary school to be provided by the local education authority being a site within the area, which in the opinion of the local education authority will be served by the new school, shall (subject to compliance with such conditions as may be made by that authority with respect to the amount available for the purchase of the site) be selected by the council of the metropolitan

borough in which the area is situated, or, if that area is comprised in more than one metropolitan borough, by the councils of those boroughs jointly.

(3) The council of a metropolitan borough may, if they think fit, exercise any of their powers under this section, and also any powers which may be delegated to them by the local education authority under the principal Act, or which they have as minor local authority under that Act, through a committee or committees appointed by them consisting either wholly or partly of members of the council.

Modification of Principal Act and Interpretation.

4.—(1) The modifications of the principal Act set out in the Second Schedule to this Act shall have effect for the purposes of this Act.

(2) The expression 'metropolitan borough' in this Act shall include the city, and the expression 'council of a metropolitan borough' shall include the common council.

Commencement, repeal, and short title.

5.—(1) This Act shall come into operation on the appointed day, and the appointed day shall be the *first day of May nineteen hundred and four*, or such other day, not being more than twelve months later, as the Board of Education may appoint, and different days may be appointed for different purposes and for different provision of this Act.

(2) In addition to the repeals effected by the principal Act, the Acts mentioned in the Third Schedule to this Act shall be repealed to the extent specified in the third column of that Schedule.

(3) This Act may be cited as the Education (London) Act, 1903, and the Education Acts, 1870 to 1902, and this Act, may be cited as the Education Acts, 1870 to 1903.

SCHEDULES.

FIRST SCHEDULE.

CONSTITUTION OF EDUCATION COMMITTEE.

1. The education committee shall as ordinarily constituted consist of ninety-two members, of whom thirty-six shall be persons who are members of the local education authority, appointed by that authority; thirty-one shall be persons who are members of the councils of metropolitan boroughs, appointed by those councils, the Common Council and the council of the City of Westminster each appointing two members, and each of the other metropolitan boroughs appointing one member; and twenty-five shall be appointed by the local education authority in accordance with a scheme made by that authority and approved by the Board of Education.

The scheme shall provide for the appointment of those members in accordance with paragraphs (b) and (c) of subsection three of section seventeen of the principal Act, and subsections six and seven of section seventeen and section twenty-one of that Act (which relate to the making of schemes) shall apply with respect to any such scheme as

they apply with respect to a scheme for the constitution of the whole education committee.

2. On the first education committee there shall be five supernumerary members, selected by the local education authority from among the members of the London School Board, but those supernumerary members shall cease to hold office on the expiration of a period of five years from the date of the constitution of the first education committee, and any vacancy in their number occurring by death, resignation, or otherwise, shall not be filled up.

SECOND SCHEDULE.

MODIFICATIONS OF THE PRINCIPAL ACT.

1. References in the principal Act to the council of a borough shall not be construed as references to the council of a metropolitan borough, except—

(a) in paragraph (a) of section twenty (relating to arrangements between councils), in subsection two of section twenty-four (relating to interpretation), and in paragraph nine of the Second Schedule; and

(b) as respects the borough of Woolwich, so far as is necessary to enable the council of that borough to make any contribution which they are authorised to make under section nineteen of the London Government Act, 1899.

2. The provisions of section two of the principal Act as to limit of rate, shall not apply.

3. Subsection one of section six of the principal Act (relating to the management of schools), and so much of subsection one of section twelve of that Act (relating to the grouping of schools under one management) as enables the local education authority to group public elementary schools provided by them, shall not apply.

The provisions in the division headed B. of the First Schedule to the principal Act shall not apply to the council of a metropolitan borough.

4. Subsections three and five to eight of section seventeen of the principal Act (relating to education committees), and section twenty-one of that Act, shall not apply except so far as they are applied for the purposes of the First Schedule to this Act.

5. The provisos to subsection one of section eighteen of the principal Act (relating to expenses), and subsection two of section thirteen of that Act (relating to endowments), shall not apply.

6. The words 'a county council' in section nineteen of the principal Act (which relates to borrowing) shall, as respects borrowing by the local education authority, be construed as if they were 'the London County Council.'

7. Subsection seven of section twenty-three of the principal Act shall be read as if the following words were added to it, namely, 'and the office of a teacher in a school provided by the local education authority shall be deemed to be an office in the gift or disposal of the county council, and, as respects any school managed by the council of a metropolitan borough, a paid office under the council of that borough.'

8. Section twenty-seven of the principal Act (relating to extent, commencement, and short title) shall not apply except so far as subsection three of that section is already applicable to London, and the words 'the appointed day' shall be substituted for 'the twenty-sixth day of March nineteen hundred and four' in that subsection.

9. The Treasury shall be substituted for the Local Government Board in paragraph six of the Second Schedule to the principal Act.

10. References in the principal Act to the passing of that Act shall be construed as references to the passing of this Act.

THIRD SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict. c. 75.	The Elementary Education Act, 1870.	The definition of 'metropolis' in section three. Sections thirty-seven, thirty-eight, and thirty-nine. Section fifty-eight. The Third Part of the Second Schedule, and the Fifth Schedule.
36 & 37 Vict. c. 86.	The Elementary Education Act, 1873.	Section sixteen.
48 & 49 Vict. c. 38.	The School Boards Act, 1885.	Section two.

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LOCAL EDUCATION AUTHORITIES

FOR ENGLAND AND WALES

For the purposes of the Education Act, 1902.¹

ENGLAND, exclusive of London and Monmouthshire.			Authorities for the purposes of Parts II. and III. of the Act.		Authorities for the purpose of Part III.
Authorities for the purposes of Parts II. and III. of the Act.	Authorities for the purpose of Part III.	Authorities for the purpose of Part III.	Council of County.	Council of County Borough.	Council of Borough or Urban District.
Council of County.	Council of County Borough.	Council of Borough or Urban District.			
Bedford		Bedford ² Luton ²	Essex	West Ham	Barking Town Chelmsford ² Colchester ² East Ham Harwich ² Ilford Leyton Southend-on-Sea ² Walthamstow
Berks	Reading	Maidenhead ² Newbury ² New Windsor ²			
Buckingham		Chipping Wycombe ²	Gloucester	Bristol Gloucester	Cheltenham ²
Cambridge		Cambridge ²	Hampshire	Bournemouth Portsmouth Southampton	Aldershot Gosport and Alverstoke Winchester ²
Isle of Ely					
Chester	Birkenhead Chester Stockport	Congleton ² Crewe ² Dukinfield ² Hyde ² Macclesfield ² Stalybridge ² Wallasey	Isle of Wight		Newport ² Ryde ²
			Hereford		Hereford ²
Cornwall ²		Falmouth ² Penzance ² Truro ²	Hertford		Hemel Hempstead ² St. Albans ² Watford
Cumberland		Carlisle ² Whitehaven ² Workington ²	Huntingdon		
Derby	Derby	Chesterfield ² Glossop ² Ilkeston ²	Kent	Canterbury	Beckenham Bromley Chatham ² Deal ² Dover ² Erith Faversham ² Folkestone ² Gillingham Gravesend ² Maidstone ² Margate ² Penge Ramsgate ² Rochester ² Tunbridge Wells ²
Devon	Devonport Exeter Plymouth	Barnstaple ² Tiverton ² Torquay ²			
Dorset		Poole ² Weymouth and Melcombe Regis. ²			
Durham	Gateshead South Shields Sunderland West Hartlepool	Darlington ² Durham ² Felling Hartlepool ² Hebburn Jarrow ² Stockton-on-Tees ²	Lancaster	Barrow Blackburn Bolton Bootle Burnley Bury	Accrington ² Ashton under Lyne ² Bacup ² Blackpool ² Chadderton

¹ A map, showing the distribution of these authorities over England and Wales, will be found opposite p. 792.

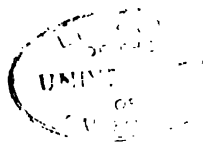
² Boroughs.

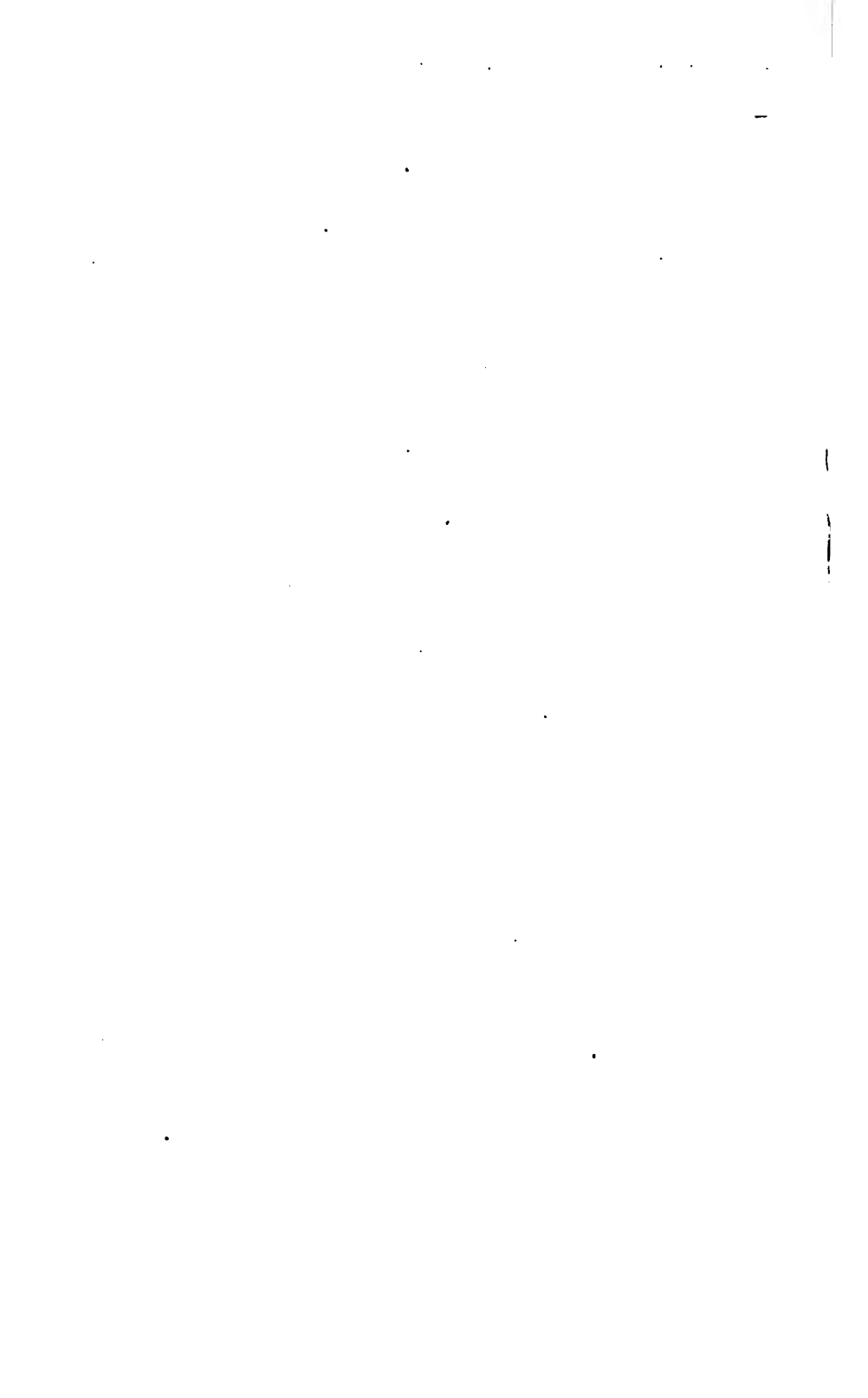
³ By §26 of the Act the Council of the Isles of Scilly becomes the local education authority for the Scilly Islands.

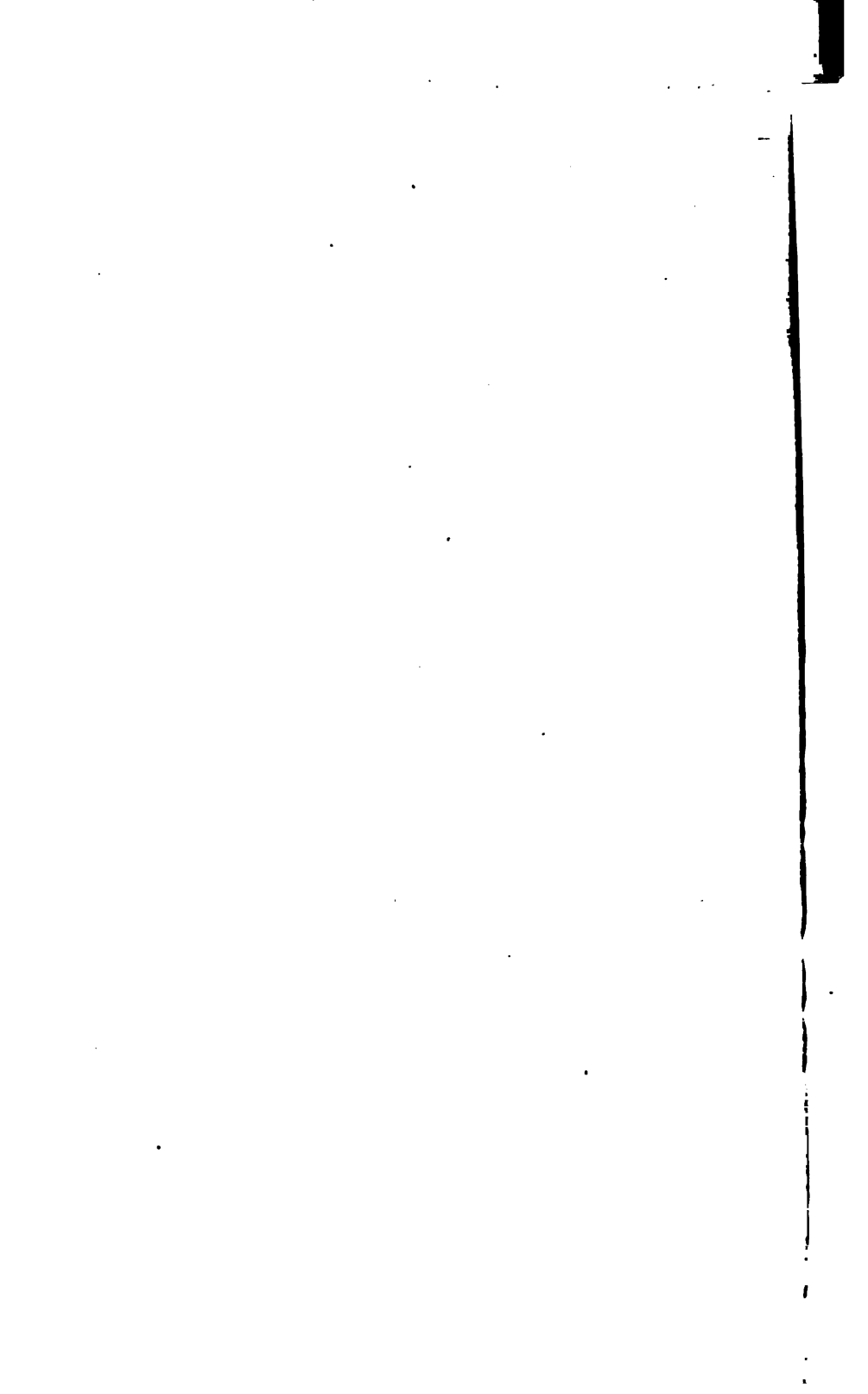
Authorities for the purposes of Parts II. and III. of the Act.		Authorities for the purpose of Part III.	Authorities for the purposes of Parts II. and III. of the Act.		Authorities for the purpose of Part III.
(Council of County.)	Council of County Borough.	Council of Borough or Urban District.	Council of County.	Council of County Borough.	Council of Borough or Urban District.
Lancaster— (continued)	Liverpool Manchester Oldham Preston Rochdale Saint Helen's Salford Warrington Wigan	Chorley ² Clitheroe ² Colne ² Darwen ² Eccles ² Farnworth Gorton Haslingden ² Heywood ² Hindley Ince-in-Makerfield Lancaster ² Leigh ² Middletown ² Morecambe ² Mossley ² Moss Side Nelson ² Pemberton Radcliffe Rawtenstall ² Southport ² Stretford Swinton and Pendlebury Waterloo with Seaford Widnes ² Withington	Nottingham	Nottingham	East Retford ² Mansfield ² Newark ²
			Oxford	Oxford	Banbury ²
			Rutland		
			Salop		Shrewsbury ² Wenlock ²
			Somerset	Bath	Bridgwater ² Taunton ²
			Stafford	Burton-on-Trent Hanley Walsall West Bromwich Wolverhampton	Bilston Burslem ² Cannock Coseley Fenton Handsworth Longton ² Newcastle-under-Lyme ² Rowley Regis Smethwick ² Stafford ² Stoke-upon-Trent ² Tipton Wednesbury ²
Leicester	Leicester	Loughborough ²			
Lincoln— Parts of Holland		Boston ²			
Parts of Kesteven		Grantham ²			
Parts of Lindsey	Grimsby Lincoln		Suffolk (East)	Ipswich	Lowestoft ²
Middlesex		Acton Chiswick Ealing ² Edmonton Enfield Finchley Hendon Heston and Isleworth Hornsey Tottenham Twickenham Willesden Wood Green	Suffolk (West)		Bury St. Edmunds ²
			Surrey	Croydon	Guildford ² Kingston-on-Thames ² Reigate ² Richmond ² Wimbledon
Norfolk	Great Yarmouth Norwich	King's Lynn ²	Sussex (East)	Brighton Hastings	Bexhill ² Eastbourne ² Hove ² Lewes ²
Northampton	Northampton	Kettering	Sussex (West)		Chichester ² Worthing ²
Soke of Peterborough		Peterborough ²	Warwick	Birmingham Coventry	Aston Manor Nuneaton Chilvers Cote Royal Leamington Spa ² Sutton Coldfield ² Warwick ²
Northumberland	Newcastle-upon-Tyne	Berwick-on-Tweed ² Tynemouth ² Wallsend ²			

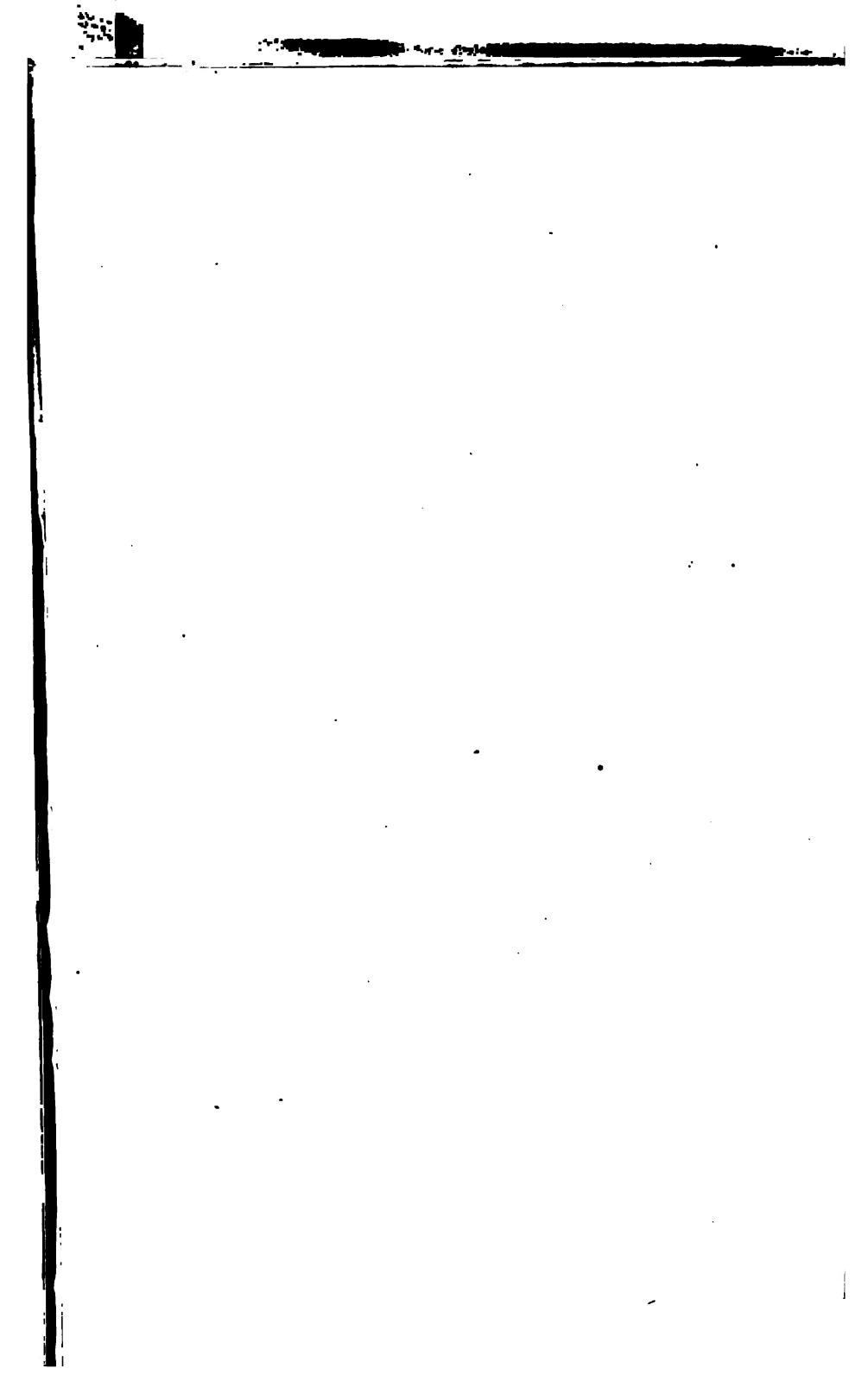
¹ For Map, see opposite p. 792.² Boroughs.

Authorities for the purposes of Parts II. and III. of the Act.		Authorities for the purpose of Part III.	WALES AND MONMOUTHSHIRE.		
Council of County.	Council of County Borough.	Council of Borough or Urban District.	Authorities for the purposes of Parts II. and III. of the Act.		Authorities for the purpose of Part III.
			Council of County.	Council of County Borough.	Council of Borough or Urban District.
Westmorland		Kendal ²	Anglesey		
Wiltshire		Salisbury ² Swindon ²	Brecknock		
Worcester	Dudley Worcester	Kidderminster ² Kings Norton and Northfield Oldbury	Cardigan		
			Cardmarthen		Cardmarthen ² Llanelly
			Carnarvon		Bangor ²
York— East Riding	Kingston-upon- Hull	Beverley ² Bridlington ²	Denbigh		Wrexham ²
			Flint		
North Riding	Middlesbrough	Scarborough ² Thornaby-on- Tees ²	Glamorgan	Cardiff Swansea	Aberdare Barry Merthyr Tydvil Mountain Ash Neath ² Pontypridd Rhondda
West Riding	Bradford Halifax Huddersfield Leeds Rotherham Sheffield York	Barnsley ² Batley ² Brighouse ² Dewsbury ² Doncaster ² Harrogate ² Keighley ² Morley ² Ossett ² Pontefract ² Pudsey ² Shipley Todmorden ² Wakefield ²	Merioneth		
			Monmouth	Newport	Abertillery Ebbw Vale
			Montgomery		
			Pembroke		Pembroke ²
			Radnor		

¹ For Map, see opposite p. 792.² Boroughs.







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